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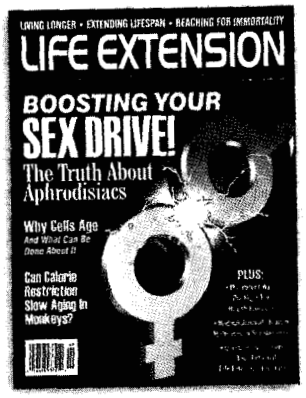
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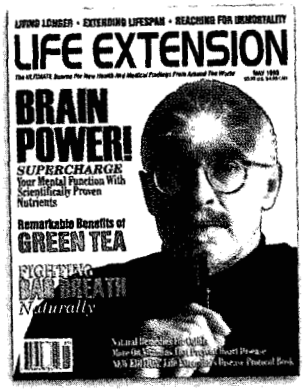
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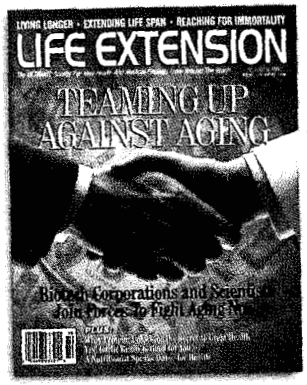
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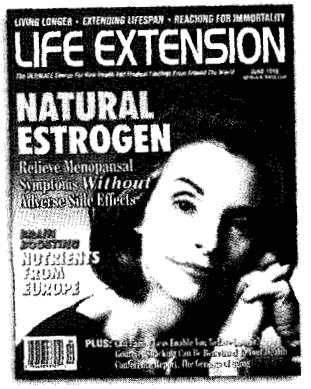
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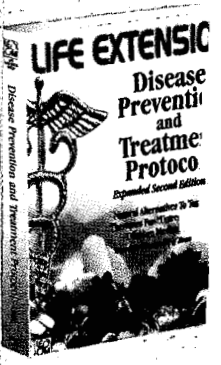

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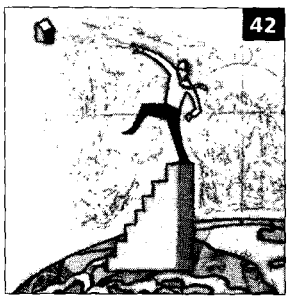

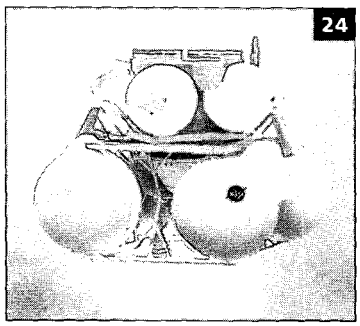

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Rumor Mongers

"Neutral" technocrats sign on to anti-technology smear campaigns.

By Virginia Postrel

If you want to hurt an upstart product, one of the most effective techniques is to start an unfounded rumor—to play on public suspicions and force the maker to prove its innocence. You can start spreading the word, for instance, that urine got into the beer or that the soda pop makes black men sterile. You can taint your target even among people who don't quite believe the allegations. Why, after all, should they take a chance?

Such rumors have hurt actual products; the beer and soda examples are real. But those rumors have gotten harsh treatment in the press. Debunkers attack the stories as malicious and paranoid. And any competitor caught spreading such falsehoods would be subject to serious civil action.

If, however, you are attacking not just a single product but a whole technological category, everything changes. Then you're an idealist. You don't have to keep to the shadows. You can take out full-page ads in newspapers and plant stories with TV news magazines. You can block innovations you dislike by falsely accusing them of terrible dangers. And you can get the government to help you.

Back in 1970, that's what people who hated the birth-control pill did. Under the leadership of Sen. Gaylord Nelson (D-Wisc.), an anti-technology ideologue now known primarily as the father of Earth Day, the Senate held hearings that scared the hell out of American women. Their message was that the pill was highly dangerous, a threat to women's health, even to their lives.

The lead witness, Dr. Hugh J. Davis of the Johns Hopkins School of Medicine, denounced oral contraceptives as a "medically unsound" interference with nature: "The synthetic chemicals in the pill are quite unnatural with respect to their manufacture and with respect to their behavior once they are introduced into the human body....It seems to me extremely unwise to officially license, sponsor, and encourage a long-range experiment such as we have now in progress on the effects of chronic ingestion of synthetic hormones by millions of women." In particular, he invoked "the nagging specter of cancer," breast cancer in particular. Use of the pill plummeted overnight.

Today, about a third of women tell pollsters that they associate oral contraceptives with increased cancer risk—although the link to breast cancer has never been proven, and oral contraceptives actually prevent ovarian and endometrial cancer. By avoiding the pill, American women are increasing their cancer risk. And because they believe the pill is far more dangerous than it is, they undergo sterilization surgery at a much higher rate that their European counterparts. A generation after Nelson's hearings, the pill still suffers a stigma.

Few people remember the source of that stigma, or the role that an anti-technology senator played in fostering it. Fewer still know that Davis, the medical professor who did so much to smear the pill, was the inventor of the Dalkon Shield.

That's the great thing about rumors: Once they're loose, their propagators don't have to bear any responsibility for their consequences. Innuendo means never having to say you're sorry. Plus, the stigma is likely to be permanent. Your target can never prove a negative; there's always another possible study that might finally find that cancer link.

Today's anti-technology crusaders are a lot savvier than Nelson and Davis were in 1970—the pill, after all, is still on the market. Nowadays, rumor mongers don't settle for mere defamation or rely on inconclusive congressional hearings. Instead, they turn to the supposedly disinterested technocrats in federal agencies. These officials have the aura of neutral expertise and the executive power to act. Their mere suggestions carry enormous weight. Enlist such an agency in spreading a malicious rumor, and you can destroy just about any innovation, either through direct bans or subsequent litigation.

Consider two remarkable scientific reports released in early December. Each examined the factual basis for a campaign to smear a technology. The first was a comprehensive analysis of the research on silicone-gel breast implants. The report was prepared by a science panel appointed by the judge coordinating the class-action suits against three implant makers. Both sides in the litigation agreed on the panel's members, who are specialists in epidemiology, immunology, and toxicology. Both sides furnished them with information and studies. Yet the panel's conclusion entirely favored the defense: There is no credible evidence that silicone-gel breast implants cause disease. The claim that they do has all the foundation of an urban legend.

The damage, however, has been done. The three implant manufacturers have already agreed to pay out huge sums to settle the suits: $5,000 to $100,000 per plaintiff, with tens of thousands, perhaps hundreds of thousands, of women signing on. The only remaining issue is how many plaintiffs will take the settlement cash instead of trying to win more money at trial. A few weeks before the report was released, a fourth manufacturer, Dow Corning, proposed a $3.2 billion settlement plan in its separately consolidated case.

Most significantly, silicone-gel breast implants are essentially off the market in the United States, made illegal for most purposes by the Food and Drug Administration. Even if the FDA changes its mind, it's unlikely that any company would take a chance on reintroducing this once-popular product. Women who want silicone-gel implants are out of luck, unless they leave the country. The campaign against the technology worked.

The second study covered a more recent rumor: allegations by Greenpeace and others that a plastic used in squishy

children's toys causes kidney and liver damage, including cancer, when ingested. High doses of the chemical, diisononyl phthalate, have been shown to cause tumors and other organ damage in rats and mice. Since kids tend to chew these toys, some of which are designed as teethers, the charge is a serious one. And, like the campaign against silicone-gel breast implants, it turns out to lack foundation.

On December 2, the Consumer Product Safety Commission released a huge, eye-glazing study demonstrating that the amount of chemicals children ingest by chewing on these toys is way, way below anything approaching a dangerous dose. Kids simply can't get enough of the chemical into their system to cause any damage. A child is about as likely to be seized by evil spirits in the Teletubby doll he's chewing as he is to absorb enough diisononyl phthalate to create health problems.

The international campaign against the toys spreads superstitious anxieties about synthetic chemicals and, by extension, about industry and technology in general. Fear, not health, is the point. And despite the CPSC's report, the anti-phthalate campaign has won.

Even as it released the study showing that the campaign is hooey, the CPSC asked toy makers and retailers to take the toys off the market. The agency suggested that parents of infants throw the toys away. It asked for further study. The message was clear: Scientists say the toys are safe, but we disagree—why take a chance? The CPSC joined the defamation campaign.

As a result, no manufacturer or retailer can afford to keep the toys on the market. Once a government agency has suggested that a product is dangerous, the litigation risk is simply too high to keep selling it. In fact, every child who comes down with kidney or liver disease and who has ever chewed a phthalate-containing rattle—a category that includes most kids—now has an innuendo-based case to bring against the rattle maker. There are few plaintiffs more sympathetic than sick children.

Consider what happened with breast implants. There was no serious evidence against them when FDA Commissioner David Kessler declared a moratorium, pending further studies. But his action suggested danger, and the implants were doomed. As Joseph Nocera wrote in *Fortune*: "In a less litigious society, a government official would be able to say out loud that a medical device needed further study, and that's what would happen: There would be further study. Instead, Kessler's call for an implant moratorium became the spark that finally lit the blaze. Within weeks, 100 lawsuits had become 1,000 lawsuits. The stampede had begun."

The administrative state promised us government by neutral experts, wise men who would consider the facts and issue rational regulations based on science, efficiency, safety, and the public good. All we had to do was surrender political accountability—independent agencies report neither to Congress nor to the president—and individual liberty.

It was always a bad bargain: Technocracy is by nature hostile to *diversity* and freedom. Its goal is control—a uniform future shaped by experts. It recognizes only one best way. So it overrides the judgments and desires of individuals, curbing choice, experimentation, and learning in the name of "scientific" wisdom.

Now, however, our technocrats aren't keeping their side of the bargain. They're destroying not only choice but progress, attacking not only liberty but truth. They have joined forces with those who seek to quash technology, innovation, and "unnatural" inventions—to create a static society by defamation and decree. By attacking the innocent and emboldening the malevolent, spreading rumors and defying their own experts, they have betrayed the public trust.

Strange Daze

Baby boomers fixate on "national purpose."

By Nick Gillespie

Who could have predicted that 1998 would be the year that the baby boomers finally made peace with their parents? The now-middle-aged "younger generation" that once embraced "The Times They Are A-Changin' " as an anthem is now singing a very different tune regarding its elders.

The combative scorn embodied in Bob Dylan's declaration of generational conflict is gone. The boomers, now parents (or grandparents) themselves, are no longer interested in lyrics such as, "Come mothers and fathers throughout the land/ and don't criticize what you can't understand/Your sons and your daughters are beyond your command...."

Derision for those who lived through the Great Depression and World War II has been replaced with gushing admiration and respect. But the lessons that leading-edge boomers are drawing from their elders, anointed "the greatest generation" by Tom Brokaw in a new book with that title, are less about paying tribute to those who came before and more about asserting a new form of generational privilege over those who come after.

Given that the Vietnam War had been one of the major sources of generational friction, it is particularly ironic that the movie *Saving Private Ryan* has been a prime factor in narrowing the generation gap. Through unrelenting, ultrarealistic battle sequences, that film helped create a newfound appreciation for the almost casual heroism of American combatants during World War II. Another of the year's most-anticipated releases, Terrence Malick's Guadalcanal drama *The Thin Red Line*, is likely to deepen those feelings in a generation that derided John Wayne as a camp icon. For the first time, it seems, boomers who came of age in the 1960s are able to recognize in their parents something worth emulating.

However long overdue the boomers' gratitude and empathy may be, there remains something characteristically self-absorbed about it. In an interview with film critic Roger Ebert, *Saving Private Ryan* director Steven Spielberg referred to World War II as the "key—the turning point of the whole century....It was as simple as this: The century either was going to produce the baby boomers or it was not going to produce the baby boomers. World War II allowed my generation to

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exist."

There is something similarly disquieting about how the boomers are discussing the experience of "the greatest generation." During World War II, Tom Brokaw wrote recently in *Newsweek*, "ordinary people found common cause, made extraordinary sacrifices and never whined or whimpered. Their offspring, the baby boomers, seem to have forgotten the example of their parents. We should be reflecting more on what we can learn from the men and women who...were called to duty at home and abroad....We must restore the World War II generation's sense of national purpose, not merely of individual needs."

Though seemingly innocuous, Brokaw's call for a renewed "national purpose" is unsettling, and not simply because it is implicitly militaristic ("The one time we got together," he quotes Sen. Daniel Inouye of Hawaii as saying, "was during World War II. We stood as one, we clenched our fists as one"). During a period that Brokaw grants has "no overarching national crisis," exactly who will be called upon to make what "extraordinary sacrifices" without complaint? The burdens of such inevitably fall on the young and, for those of us who were born at the tail end of the baby boom or later, it is hard not to suspect that the next "national crisis" will inevitably involve sacrificing ever-greater portions of our wages to fund a Social Security system that will be depleted long before we retire. The Me Generation's shift to the We Generation is timed so as to inspire maximum cynicism.

There is something exceedingly naive in Brokaw's invocation of "national purpose" as an unalloyed good. It's a phrase that lends itself most readily to coercive social agendas, protectionist economic programs, xenophobic immigration policies, and other divisive strategies; indeed, World War II itself was essentially fought to defeat the various "national purposes" of the Axis powers. The paradoxical truth about America is that by granting individuals maximum latitude to determine how to live their own lives, it offers a measure of refuge from being forced to serve someone else's "national purpose."

It is passing strange that the boomers—who rejected so strongly and defiantly their own parents' designs for them—should now be clamoring for a revived "national purpose" of which they are likely to be beneficiaries. And it seems very much out of keeping with the lesson that the World War II generation may actually have drawn from its experience.

As I read Brokaw's *Newsweek* column, my thoughts turned to my father, who died a year and a half ago. He was precisely the sort Brokaw seeks to honor: Born in 1923, he grew up in poverty that was stark even for Depression-era America; he participated in the Normandy invasion and the other major campaigns in Western Europe, and was awarded a Purple Heart after being wounded in Germany.

I never heard him rhapsodize about his youth, and I never heard him pledge fealty to an abstract "national purpose." If anything, he was relieved that none of his children was sacrificed to such a beast. That's not to say his life was dedicated "merely" to satisfying his own "individual needs." He was a devoted parent, a charitable neighbor, a responsible employee. But when he died, his dresser was covered with pictures of his family—and his war medals were buried deep in a drawer.

REASON NEWS

■ We're pleased to annouce that Ronald Bailey has signed on as REASON's science correspondent, focusing primarily on biotechnology. Long a contributing editor, Ron's most recent article for REASON was "Dreams of Stagnation" in the November issue.

■ **Attention college students:** REASON is accepting applications for the 1999 Burton C. Gray Memorial Internship. The intern works at least 10 weeks in our Los Angeles office and receives housing, a stipend of $2,000, and up to $400 in travel expenses. The job includes reporting and writing for REASON, helping with research, proofreading, and other magazine-related tasks. To apply, send your résumé, up to five writing samples, and a cover letter to Gray Internship, c/o Mariel Garza, REASON, 3415 S. Sepulveda Blvd., Suite 400, Los Angeles, CA 90034. The deadline is **March 1, 1999.**

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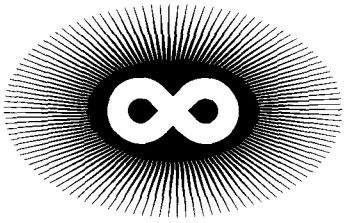

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- **David Post**, Temple University Law School, co-founder, Cyberspace Law Institute
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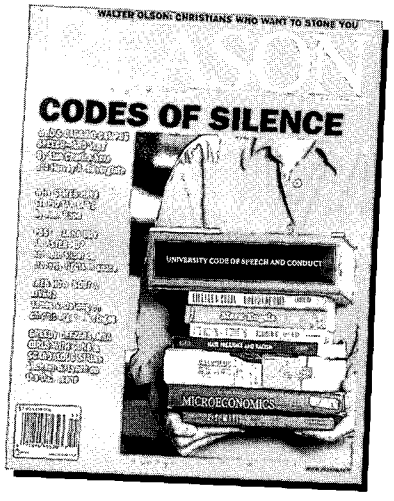

Casting Stones

Kudos to Walter Olson for his excellent article ("Invitation to a Stoning," November). Religious intolerance by conservatives is the main reason why I migrated out of the right wing of the Republican Party and eventually out of the Republican Party altogether.

Now I'm learning that the conservative intolerance I fled from is "Fundamentalism Lite" compared to the Reconstructionists. Although it's easy to chuckle at the ideas of the Reconstructionists, what makes them so dangerous is that they make ultraconservatives like Gary Bauer and James Dobson look almost moderate.

The increasing influence of Reconstructionists over the GOP is especially terrifying for those of us who would be executed several times over under a Reconstructionist theocracy (which probably includes nearly all of the readers of REASON for one reason or another). While I don't for a moment think we ever will actually have stoning or a theocracy in America, I do fear that the poison they spread will lead to continued tragedies of hatred like the murder of Matthew Shepard, abortion doctors, and others.

There are a few places that are Reconstructionist paradises, where Reconstructionist ideas are appreciated and in full force. Iran, Afghanistan, and Sudan come to mind. It's amazing that some people actually consider Iran and Sudan as role models for the United States.

Jim Cheaney
Colo, IA

Protruding conspicuously through the facade of smirking paranoia in Walter Olson's screed against Christian Reconstruction is the outline of the ever-widening chasm between secular rationalists known as libertarians on one side and, on the other, Christians dedicated to re-establishing Christian civilization, by which alone true political freedom is possible. In what he obviously considers gleeful revelations of our dedication to taking seriously the whole Bible, Olson conveniently neglects to mention Rushdoony's conviction in *Law and Society* that the biblical civil codes are designed for a nation in covenant with God, not modern Western secular democracies which are at war with God. The last thing we would endorse is a "Christian" version of the modern leviathan state. We support maximum individual freedom under God's law. Our vision is not fundamentally about politics.

Much closer to the mark than Olson is William Rusher in his comments in the Fall 1998 *Intercollegiate Review*:

"If what we have seen thus far is the shape the battle is going to take, we conservatives are going to have to prepare ourselves to lose many allies who fought at our side in the struggles against communism and democratic socialism. Many libertarians and some classical liberals are simply not ready to accept a 'metaphysical dream of the world' [Kirk's language] that has a central religious component."

Rationalist libertarianism sows the seeds of statist tyranny by its enthronement of individual autonomy. But individual autonomy is no less repugnant and pernicious than collective autonomy. The autonomous "one" is as socially lethal as the autonomous "many." As Rushdoony has observed, the perennial question of the one and the many—including its political dimension—is solved only in the Triune God revealed infallibly in Sacred Scripture.

This the secular libertarians flatly repudiate. By this repudiation, they seal their own ironic contribution to the growth of autonomous collectivism, of which their autonomous individualism is but a complementary version and with which it is a cooperative endeavor.

Andrew Sandlin
Executive Director
Chalcedon
Vallecito, CA

I find it paradoxical that a magazine titled REASON would run a column which is apparently devoted to inflaming prejudice. Walter Olson has characterized Christian Reconstructionists carelessly, and in a way so as to promote misunderstanding, obscure areas of real agreement, and make it more difficult to honestly discuss the main lines of disagreement.

Based on his oversimplified characterization of some Christian Reconstruction tenets (e.g., nobody advocates stoning "gays," because a preference or an orientation is never a crime) and the closing section of his column, where he seeks to arm his readers with anti-theocratic soundbites, it appears that Olson would like theocratic and secular libertarians to stop working together on matters of mutual interest, and instead start fighting each other.

This would be understandable if the leviathan state were no longer around, because we disagree on the fundamental reasons for opposing statism. However, big government is still with us, and starting a

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war now would only strengthen the leviathan and harm us both. Remember, the theocratic libertarians are the only people affiliated with Christian conservatives who oppose using the state as an agent of moral reformation (the Bible forbids that). Where else will you find orthodox Christians who oppose the war on drugs (consider Kevin Clauson and Tom Rose's articles in *The Christian Statesman*, January-February 1996), or who refuse to seek statist solutions to indecent material on the Internet? Do you want Christians working for the separation of school and state, or do you want them crusading for school prayer? Is it Olson's and REASON's goal to push Christians into the arms of Gary Bauer?

I cannot see how a war between secular and theocratic libertarians can help secular libertarians either. First, such a war will paint libertarians as people given to factions. Second, it will tend to associate libertarianism with atheism. Both of these perceptions will diminish the plausibility of libertarianism in the nation at large.

To encourage infighting between secular and theocratic libertarians will only delay our liberation from an increasingly intrusive secularistic state. Although we cannot be real allies, due to our fundamental differences, there is no good reason not to remain as co-belligerents in the struggle to persuade America to seek freedom.

William W. Gould
Treasurer
National Reform Association
Pittsburgh, PA

In "Invitation to a Stoning," is the Gary North mentioned the same Gary North who is outspoken on Y2K social disorder?

If you read his Webstuff on Y2K, you would see a clearer claim to "Christian libertarianism." Some is summarized on www.y2kchaos.com, with links from there to Gary North's pages.

Still, if he is a Christian libertarian, he's only libertarian enough, so to speak, to ensure equal rights for his brand of Christianity. That is missing the point of liberty.

Brian C Rachocki
Cazenovia, NY

Walter Olson replies: William Gould and Andrew Sandlin don't deny that Recons favor the execution of blasphemers, parent cursers, apostate Christians, adulterers, occultists, and practicing gays (this last a nod to Mr. Gould's complaint that my terminology was imprecise). Mr. Sandlin dodgingly asserts that these measures would be put into effect only after America reaches covenant status, the Rushdoony equivalent of "after the revolution." Are Reconstructionists working to bring America into covenant status? Yes.

I appreciate Mr. Gould's candor in frankly avowing his side "theocratic" and noting that "we cannot be real allies, due to our fundamental differences." I winced, however, when he observed that some of his co-thinkers have decried the drug war; before long, at this rate, the cause of drug legalization might stop being respectable. As for Mr. Sandlin's more personal reflections, I am still trying to follow his metaphor (it seems the outline of a chasm is protruding conspicuously through a facade—is this an "innie" or an "outie"?) but will be glad if the only violence he accomplishes is against the English language.

Thanks to Jim Cheaney for his comments, and to Brian Rachocki: Yes, the Reconstructionist Gary North is the same one who's involved in Y2K alarmism.

Transplanting Policy

Your article on organ transplant policy ("Organ Grinders," November) did a good job of framing most of the issues in the debate. There were a few details that you left out.

First, the purpose of the sickest-first policy is to get organs to people who need transplants before they get to the critical stage of their disease. Their bodies should then be healthier and better able to recover.

Second, with this new program there would be more of the large transplant centers at the expense of the smaller transplant centers. However, this is not necessarily a bad thing. If you were getting an organ transplant, wouldn't you rather have a team that does it a few times a month rather than a few times a year?

Thirdly, the University of Pittsburgh does a lot of liver transplants for patients outside of the area because it is a liver specialty center. The Pittsburgh center takes on more of the difficult cases, and people with more complicated cases come from all over the country for its expertise. As other medical centers learn how to do liver transplants, the patients who might have otherwise traveled to Pittsburgh can be served by other centers that did not exist in 1990.

Finally, your comparison of the Peace Corps volunteer to the senator is exactly what happens in today's market. The well-off individual can register in dozens of regional transplant centers (at $30,000 to $75,000 a pop) and get a transplant at whichever has the first available organ. The person who has to rely on standard insurance will get registered at only one.

David N. Guttman
San Pedro, CA

Immigration's Future Harm

John J. Miller's article ("The Politics of Permanent Immigration," October) reported a newsworthy incident which I believe has not been covered elsewhere. That incident took place at a meeting between Republican National Committee Chairman Jim Nicholson and a group of trade association executives.

The discussion was routine until just before the meeting was over, when Bruce Jasten of the U.S. Chamber of Commerce spoke up. Jasten predicted "a severe labor shortage sometime in the next decade." His colleagues backed him up, and no contradictory opinions were voiced before the meeting ended. Miller's article throws a spotlight on the fact that our nation's business groups have no concern about any harmful effects that present (or even increased) large immigration rates may have on our society, our use of our land's resources, and on our politics.

Alan R. Graff
Mount Carroll, IL

Claims of Nature

In the past, I have read several of Virginia Postrel's articles and essays and generally thought they were a little too far "right" for my political tastes. Thus I was pleasantly surprised to read her comments on

the current homosexuality debate ("The Claims of Nature," October). She said a great many truths in this piece, with clarity and compassion. Thank you.

Jeanne Bous
jbous@iaxs.net

In her editorial "The Claims of Nature" Virginia Postrel stated that "the argument from nature is a trap." She meant that homosexuals who appeal for social acceptance based on the evidence for a possible genetic origin of sexual orientation invite charges that homosexuality is a disease; that it's an example of a pathological, irresistible impulse similar in kind to kleptomania.

I would like to point out that abnormality does not necessarily indicate pathology. Biologists have observed homosexual behavior in many mammalian species. Same-sex sex is clearly "natural," but pointing this out just begs the question. The important consideration is that if consensual homosexual behavior does not, on average, lead to harmful effects, then characterizing it as dysfunctional makes no sense. It would be like saying that left-handedness is a disease.

As Ms. Postrel says, tolerance is the bottom line. However, biology should not be ignored. None of us would hesitate to quarantine a minority group of people infected with an incurable form of tuberculosis; tolerance of their freedom could be catastrophic for everyone. Therefore, it is important to make clear that sexual orientation is not pathological, although particular homosexuals may have sexually related psychopathologies, just as many heterosexuals do.

Will Cooper
wcooper@mcs.net

How odd it is that Virginia Postrel's essay attacking a conservative ad campaign featuring ex-homosexuals ends with a quotation by openly "gay" writer Andrew Sullivan: "To be able to live one's life loving and being loved by some other person is not something that is disease. It is the essence of what it is to be human."

Postrel writes that "we'd better get used to evaluating behavior by its consequences, not its causes." Was she aware that Sullivan's sexual expression of homosexual "love" has led him to death's door? He is HIV-positive from his admitted promiscuity (which Sullivan has had difficulty synthesizing with his personal crusade for homosexual "monogamy"). Postrel describes Sullivan's plea as "humane," while disparaging those who would extend a hand of hope to people like him who struggle with inclinations that lead to dangerous behaviors. Surely the high percentage of homosexual men with STDs and AIDS is not a mere coincidence. How can it be "humane" to encourage others to embrace an identity fraught with such health risks?

While conveniently neglecting to mention Sullivan's HIV status, Postrel takes pains to equate ex-gay living with pain. She asserts without basis that "homosexual attraction almost never changes; only behavior does—and then only rarely." Not true. Thousands have successfully changed their behavior. The notion of a "homosexual" person is new to history. How sad to see REASON has joined the ranks of those promoting this harmful ideology.

Peter LaBarbera
President
Americans for Truth
About Homosexuality
Washington, DC

Note: Americans for Truth is one of 15 pro-family groups that sponsored the Truth in Love ads featuring former homosexuals.

Virginia Postrel replies: Will Cooper's letter implicitly sheds light on Peter LaBarbera's. To argue for restricting personal freedom in the name of public health requires a high threshold for what is considered *public* health. Otherwise, as my colleague Jacob Sullum has argued so well in *For Your Own Good* and elsewhere, there is no stopping point for tyranny. Any risk becomes subject to legal sanctions. Mr. Cooper's hypothetical of incurable tuberculosis, which presumably would be contagious to anyone, is the conservative extreme. Mr. LaBarbera's suggestion that the risk of sexually transmitted diseases somehow justifies criminal sanctions against consensual gay sex—the issue that Sullivan was addressing—is at the opposite end of the spectrum.

Mr. LaBarbera claims more detailed knowledge of Andrew Sullivan's sex life than I can. But assuming Sullivan has in fact strayed from his ideals, that says nothing about the worth of those principles. Encouraging men, regardless of sexual orientation, to settle down and live committed, bourgeois lives seems to me a worthy crusade.

I did not "equate ex-gay living with pain." I merely pointed out that such life choices involve tradeoffs and that religious individuals have, throughout history, been willing to suffer for their beliefs to a much greater degree than is at issue here. It is therefore ridiculous for gay groups to suggest that no one with homosexual desires might ever willingly choose to live a heterosexual lifestyle—sacrificing sexual pleasure and some degree of intimacy in favor of faith and family. It is equally dishonest, however, to suggest that this choice says anything about the lives of individuals who do not share the conviction that gay sexual relationships are wrong. As for Mr. LaBarbera's claim that my statement that "only behavior [changes]" is "not true" because "thousands have successfully changed their behavior," I would suggest a course in reading comprehension—and a review of the math in my original article.

Finally, it's worth noting that lesbians exist, that they are at less risk of sexually transmitted diseases than heterosexual women, and that they are notably unpromiscuous. To showcase "ex-lesbians" while making generalizations about homosexuality that do not apply to female gays is disingenuous at best.

CORRECTION

In "The Right Fluff" (Citings, November), it was incorrectly reported that Sen. John Glenn was the first man to orbit the planet. Russian cosmonaut Yuri Gagarin beat him to it in 1961. Glenn, however, was the first American to do so.

In the book review "Secrets of Success" (December), the reference to latitude and longitude was reversed. It should have read, "changing latitude has a stronger effect on climate and seasonality than changing longitude."

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Red Zone

By Henry Payne

The Environmental Protection Agency should celebrate its latest triumph over "environmental racism"—the alleged siting of smokestack industries and waste dumps near minority populations. It may well prove the agency's last such victory for some time to come. That's good news for the people the EPA says it's protecting.

In September, the Shintech Corp. canceled plans to locate a $700 million polyvinyl plastics facility near the poor, largely black community of Romeville, Louisiana. (See "Green Redlining," October.) Though the plant, which would have added 255 jobs to the local economy, had passed state and federal emissions requirements, the EPA delayed final approval after Greenpeace and other activist groups claimed that the plant's proposed location constituted environmental racism. Shintech will build instead in the mostly white community of Plaquemine, some 30 miles away. (Greenpeace, which opposes all polyvinyl plastics production, is expected to challenge the new site, though not on racial grounds.)

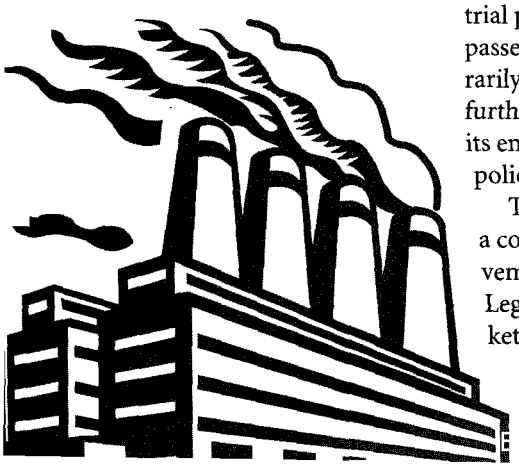
The environmental racism charges were "clearly a factor" in the company's decision to relocate, says Shintech Controller Richard Mason, who adds that the Clinton administration's policy "will inhibit companies from looking to develop near minority areas." Over 50 environmental racism cases have been filed with the federal government.

In a burst of doublespeak, EPA head Carol Browner praised Shintech's relocation decision as "a community-based, constructive approach for insuring industrial growth while protecting the rights of communities." Such rhetoric, however, is undercut by the sentiments of Romeville residents and their elected representatives.

"It's a shame. It's a great loss for economic development," says Gladys Maddie, an African-American member of the St. James Citizens Coalition, a local group that negotiated an agreement with Shintech that would have provided $500,000 in job training for the area. Polls showed a solid majority of area residents supported the plant, as did six of seven parish councilmen—including all three black members.

The plant cancellation has greatly intensified attacks on the EPA's policy from Congress and may well lead to its undoing. Concerned that the agency has unilaterally acted to expand federal civil rights law by applying it to industrial pollution, Congress passed a resolution temporarily cutting off funds for further EPA enforcement of its environmental justice policy.

The agency is also facing a court challenge. In November, the Washington Legal Foundation, a market-oriented public interest group, filed a petition against the EPA, claiming that its policy is "legally and procedurally flawed, standardless, and unconstitutional; and ...stifles economic development in low-income and minority communities, thereby harming the very persons Title VI and EPA's Environmental Justice policy were designed to protect."



Balance Sheet

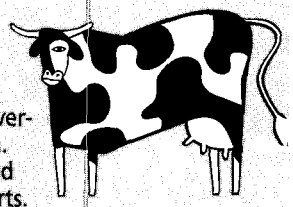
By Rick Henderson

ASSETS

△ **Busted!** The Supreme Court gives the Fourth Amendment a much-needed boost in, of all things, a drug case. An Iowa law lets cops search the cars of drivers cited for routine traffic offenses. Surprisingly, the justices say cops overreached when they searched a speeder's car, even though they found pot in the vehicle.

△ **Boomer Time?** Bill Clinton may make his mark on history for something other than impeachment. He rules out Social Security tax increases and says some of the Social Security funds should be invested in the private market. Republicans won't let the government do the investing, making some form of individual Social Security accounts likely.

△ **Duplicate Efforts.** Blanket opposition to cloning fades, as Japanese scientists report cloning eight calves from the cells of one adult cow. And in early December, a government-appointed panel of British scientists urges the Blair administration to overturn its ban on human embryo research. The panel says human fetal tissue should be used to create replacement body parts.



△ **Net Debt.** U.S. District Judge Lowell Reed puts the Child Online Protection Act on hold. Reed issues a temporary restraining order, saying the act, which prohibits commercial Internet sites from publishing material that might be "harmful to minors," a much broader standard than "obscene," could violate the First Amendment. A challenge to the law should go to trial on January 20.

Old-Time Celebration

By Michael W. Lynch

If you've been depressed since the clock ran out on United Nations celebrations such as "The Year of the Family" (1994) and the year of "Eradication of Poverty" (1996), cheer up. The U.N. recently teamed up with the U.S. Department of Agriculture to anoint 1999 the "International Year of Older Persons."

"This is a U.N. year unlike any other," declared USDA Deputy Secretary Richard Rominger at a kickoff celebration in Washington, D.C. "Longevity is a way of life."

The U.N. has issued guidelines for how one might celebrate the International Year of Older Persons, whose mantra is "Towards a Society of All Ages." Given the source, it's not surprising that the proposals lean heavily toward

▼ Private Ayes. The Clinton administration further hamstrings Internet privacy and electronic commerce with new export controls on data-scrambling encryption programs. Under the guise of arms control, the United States and 32 other countries agree to ban the export of state-of-the-art encryption, including software you can buy off the shelf from many retailers.

▼ Bank Dicks. In other privacy news, the feds try to turn bankers into spies. Regulations proposed by the Federal Reserve would force bankers to track customers' "normal" transactions and report "suspicious" activities. Everything from selling your car to switching your 401(k) could make you a criminal suspect.

▼ Be Nice, Eh? Canada considers a hate speech law that would make U.S. campus censors proud. (See "Codes of Silence," November.) A federal advisory group pushes a law that would make it a crime to possess materials "for the purpose of distribution to promote hate." British Columbia has already enacted the code. One obnoxious newspaper writer has been dragged in front of the province's Human Rights Tribunal for his cranky columns.

▼ Post Awful. Happy 1999: A first-class letter now sets you back 33 cents. The Hudson Institute's Thomas Duestenberg says that's four times what it cost in real terms 30 years ago. By contrast, over the same period the cost of long-distance calls has fallen by 88 percent.

LIABILITIES

long, tedious meetings, preferably held in expensive settings and at taxpayer expense. Among the suggestions: Invite mayors, community leaders, writers, homemakers, and caregivers to share their views on "old age in a new age." If that doesn't move you, then try this: Convene a national conference on "agritools for elders."

Bone Sell

By Ryan H. Sager

Your milkman is free to exclaim that milk does a body good. But if he tells you that milk also helps prevent osteoporosis, he may soon be in trouble with the Food and Drug Administration. Under a proposed rule change, the agency could classify such a statement as a "disease claim," which can be made only about FDA-approved drugs.

Under a 1994 law, manufacturers of dietary supplements and food products are already prohibited from claiming to cure or treat a disease—defined by the FDA as "damage to an organ, part, structure, or system of the body such that it does not function properly (e.g. cardiovascular disease)."

This means that products cannot be represented as able to "cure cancer" or "treat arthritis." But manufacturers can make more general claims about health effects, as the milk example illustrates.

The FDA is now proposing to expand its "disease claim" definition to include "any deviation from the normal structure or function" of the body. The new definition is potentially limitless. As Dr.

Stacey Zawel, a food safety expert with the Grocery Manufacturers of America, points out, *any* health claim for a product will have something to do with its effect on the body's "structure or function."

Data on Demand

By Jacob Sullum

Information may want to be free, but sometimes researchers just don't want to let it go. During the 1997 debate about the Environmental Protection Agency's new limits on airborne particles and ozone, for example, the authors of a federally funded study that was cited to support the stricter standards refused to make their raw data public. (See "Polluted Science," August/September 1997.) ▶

QUOTE

"Mr. Ventura...is basically a libertarian. 'I want to be the governor who destroys the property-tax system as we know it,' he says. When his term [as governor of Minnesota] is over, he'd like people to remember 'when Jesse Ventura was around, "I didn't even notice the government."'...Mr. Ventura makes libertarianism, a rather dogmatic creed, sound like everyday wisdom."

—Michael Kazin, American University history professor, in a widely reprinted op-ed piece.

SOURCE

"For the first time since our measurements began in 1994," states the 1999 edition of the annual *Index of Economic Freedom*, co-produced by the Heritage Foundation and *The Wall Street Journal*, "**global economic freedom has declined.**" The *Index*, which for the last half decade has measured the openness of hundreds of countries' economies in such areas as trade, taxation, and regulation, found that of the countries rated in the last two years whose score had changed, "27 improved their overall scores while 29 regressed." Overall, 71 countries earned a rating of "free" or "mostly free" while 90 countries were judged "mostly unfree" or "repressed." The executive summary, selected charts, and country analyses are available at **www.heritage.org/index**. The entire 490 pages can be purchased for $24.95 online or by calling 1-800-975-8625.

BRICKBATS

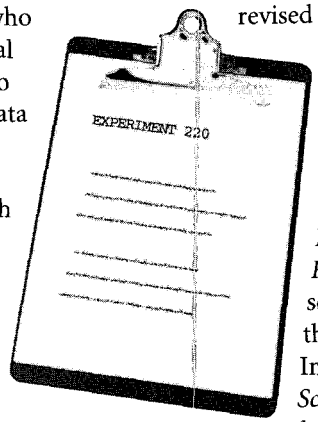
◆ U.S. Navy officials in *Norfolk, Virginia*, were upset to find that their telephone directory mistakenly listed the number for a toll-free sex line instead of the number for an emergency line at the Navy Safety Center. They were even more upset when they found that the incorrect number had been listed for three years without anyone reporting it.

◆ The Little League in Lemont, Illinois, will be a bit more hard-pressed for cash for uniforms and equipment next year. Mike and Pat O'Brien have long sponsored a team. In return the team wears the name of their business, a local bar called The Carousel. Little League rules don't bar sponsorship by a bar, so long as alcoholic beverages aren't specifically named. But this year, one girl on the team taped over the name of the bar. When officials warned her that she was violating league policy, her family threatened to sue the Little League and The Carousel for "forcing" her to wear the bar's name. The O'Briens say they can't afford to fight a lawsuit, so they'll no longer sponsor a team.

◆ The new wing at Barnstable High School is so soundproof that youngsters can't hear the fire alarms. So the school board in Hyannis, Massachusetts, took action. They hired firefighters to stand guard over the new wing, at a cost of $1,000 a day. If the fire alarm rings, the firefighters will let everyone know.

Henry Payne

In response to such stonewalling, Sen. Richard Shelby (R-Ala.) inserted a little-noticed provision into the omnibus spending bill that Congress approved last fall. It says researchers who receive federal grants have to make their data available to the funding agency, which in turn must release them to anyone who files a request under the Freedom of Information Act.



Previously, federal agencies had a contractual right to obtain research data, but they were not required to exercise it. "Lack of public access to research data feeds general public mistrust of the government and undermines support for major regulatory programs," Shelby said before the bill was passed.

Some researchers worry that access to the data on which government policy is based will only magnify public mistrust. New York University environmental scientist George Thurston, who did some of the research on which the EPA relied for its revised particulate regulations, sees a danger in too much openness.

"It's the most insidious thing," Thurston told the *Daily Environment Report*, "because it sounds like a good thing at first blush." In an interview with *Science*, he predicted that "vested interests will misuse [the Shelby provision] to discredit valid research results they don't like and to harass the researchers doing the work."

Yet one man's harassment is another's vigorous criticism, long thought to be an essential element of the scientific process. "If the research is sound," University of Chicago chemist R. Stephen Berry dared suggest to *Chemical & Engineering News*, "then it will withstand the kind of analysis that these interests want to do."

Strip Steak

By Michael W. Lynch

Talk about unintended consequences: New York Mayor Rudolph Giuliani is waging a high-profile war on the city's adult entertainment industry, in part to shield minors from the corrupting influence of the skin trade. But at least one Big Apple eatery that serves up bare-breasted women along with top-grade steak will remain open precisely because it opens its doors to kids.

Facing a Giuliani-backed initiative to banish establishments that feature nude entertainment and "exclude

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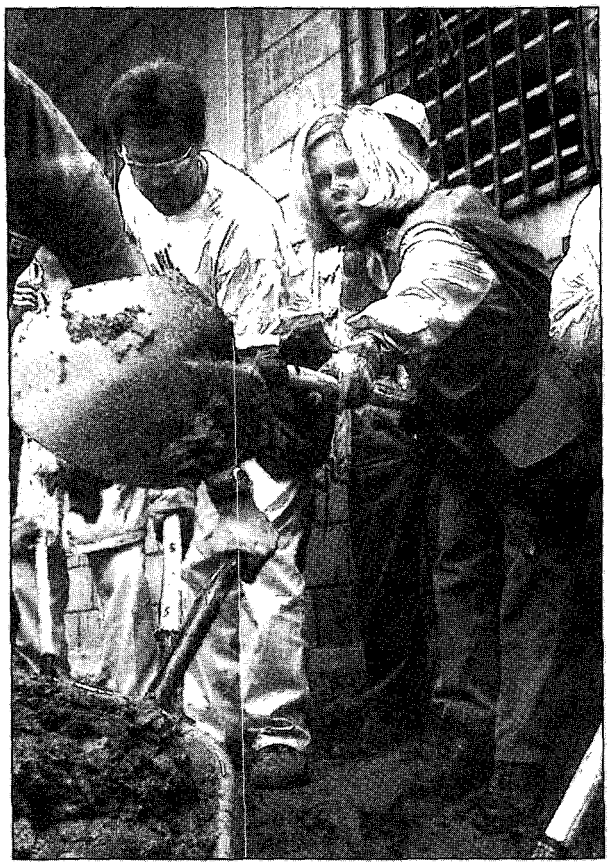


AP / WIDE WORLD PHOTO

A Perfect Shot

That's Tipper Gore, America's second lady, and she's shoveling more than mud in a Hurricane Mitch–ravaged town in Honduras. Despite their self-styled adversarial role, the major U.S. media chose not to explore the Potemkin Village theatrics necessary for the heartwarming snapshot. Instead, it was up to sources such as London's *The Independent* and *The Drudge Report* to explain that there was more to Mrs. Gore's November trip than met the eye.

According to *The Independent*'s Phil Davison, Gore's press secretary briefed reporters on the details of the photo op, even explaining that Tipper would toss exactly eight shovelfuls of mud before pausing to wipe the sweat from her brow. Not that everything went off as planned: Some villagers mistook the second lady for the late Princess Diana, and Tipper herself almost threw off the plan when she paused in front of an old woman moving mud from in front of her home and asked aloud, "Is this where I'm supposed to shovel?" (Her Nicaragua stop was almost as much fun: Relief supplies were commandeered from a private donor so she'd have something to give away, and a network cameraman slugged a White House press officer.)

But not to worry. The press printed the right picture. In fact, Davison reports, Tipper's press secretary even helped a camera crew "clamber up the [mud] pile for the perfect shot."

—Nick Gillespie

minors by reason of age" to desolate lots in New York's outer boroughs, Ten's World Class Cabaret in Manhattan decided to welcome minors as long as a parent accompanies them. The restaurant's attorney then went to court and argued that Ten's is no different than a Broadway Show that may expose Fun City's tender youth to nudity. In November, a New York trial court agreed, ruling that "Ten's cannot be defined as an adult eating and drinking establishment if it does not exclude minors."

"This is, like, nuts," Giuliani told the Associated Press, later adding: "If a parent was bringing a kid into a place like that, we should question whether the parent should have custody of the kid." The city's appeal will be heard in January.

Mark Alonso, Ten's attorney, predicts the city will lose the rematch. "You can't bend the law simply to attack one party you disagree with. That concept goes back to Sir Thomas More," says Alonso, who points out that, in recent years the city itself has sponsored a free Shakespeare production open to all ages that featured considerable nudity.

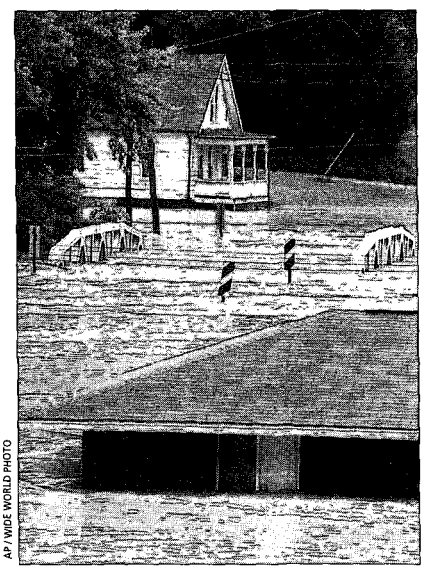
If the city does lose again, it can take solace that Ten's reports having served only three minors under its new policy.

All Wet

By James V. DeLong

A recent study by the National Wildlife Federation, a leading environmental group, documents the high tide of insanity that is the federal flood insurance program.

Higher Ground, available on the Web at www.nwf.org, focuses on "repetitive loss properties"—homes the government keeps rebuilding over and over again through insurance settlements. Using data from the Federal Emergency Management Administration, the study finds that between 1978 and 1995, repetitive loss properties (defined as two losses of over $1,000 each in any 10-year period) represented 2 percent of the homes insured but claimed 40 percent of the payments. Over 5,500 property owners collected more than the total value of their houses. Top honors went to a Texan with a house worth $114,000 who collected $807,000 on 16 claims over 18 years.



AP / WIDE WORLD PHOTO

Such statistics illustrate the lunacy of the 30-year-old flood insurance program. It undercharges property owners and takes on risks that no sane insurer would accept, which encourages development in flood plains. This, in turn, increases both the political pres- ▶

BRICKBATS

◆ Don't do the crime if you can't sue your victim. Mortimer Hetsberger robbed the Fleet Bank in Atlantic City, New Jersey. No one disputes that. But Hetsberger says he silently handed the teller a note asking for money. The teller, Laura Gonzalez, says he threatened to shoot her if she didn't comply. Hetsberger says that's a lie that caused him to be charged with first-degree robbery instead of a lesser crime, third-degree theft by unlawful taking. So he's suing Gonzalez for slander, and he's asking local prosecutors to charge Gonzalez "for her crimes."

◆ Iowa's attorney general has started an investigation of companies that sell candy cigarettes. Anti-smoking activists claim these candies entice children to smoke. But it isn't exactly clear what laws the candy makers may have broken. Still, if the state of Iowa takes action, it could start a trend. Maybe next someone could investigate the makers of wax lips under the theory that they encourage children to have unnecessary collagen injections.

◆ If you ever find yourself driving through Pacific Grove, California, keep your cell phone handy and watch out for stray pets. The city is considering an ordinance that will make it a crime to drive off without reporting an accident if you hit an animal with your car.

Chip Bok

sure for more government expenditures on flood control and the monetary losses that occur when the inevitable 100-year or 500-year floods overwhelm those defenses. Those losses are then paid for by the insurance program, and the spiral starts all over again.

During the past 25 years, the Army Corps of Engineers has spent $25 billion on flood control projects, but the losses just keep on rolling like a river. Indeed, the insurance program has lost more than $40 billion in the last five years.

But cheer up, things could be worse. And they're getting there: People are now becoming so used to the idea that the federal government will pay for disasters that they are not bothering to buy even the subsidized flood insurance. In most places, less than 30 percent of the properties located in designated flood plains are covered.

The response to such developments? The feds are now working with communities, buying back properties, passing regulations, yada, yada, yada. All to try to keep people from doing what government payments make it profitable for them to do: build in flood zones. Indeed, the feds seem anxious to consider anything except the one solution—eliminating the insurance program—that might actually change the situation.

Contract Killer

By Michael W. Lynch

Even the most skilled managed-care bashers in the Clinton administration must have felt a little queasy last October. That's when 96 HMOs announced that they would no longer do business with the federal government.

For months, HMO representatives had been telling the Health Care Financing Administration, which administers Medicare, that without reimbursement increases and relief from new regulations, they would be forced to pull out of some markets. While the HCFA sets non-negotiable pay rates for participating plans, it can't force insurers to renew Medicare contracts.

"We told them, 'No deal,'" bragged President Clinton at an October 8 press conference. "We're not going to allow Medicare to be held hostage to unreasonable demands." The upshot for the 50,000 seniors now living in areas bereft of a single managed-care provider? They can enroll in Medicare's traditional plan, for which seniors will pay the same premium as before in return for fewer services. How's that for reasonable?

Too Kool?

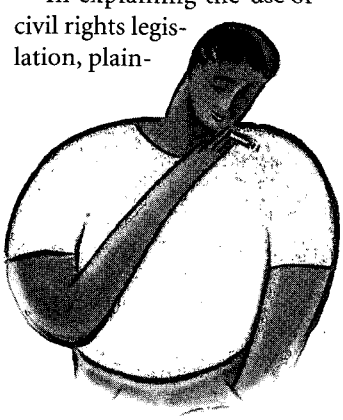
By Ryan H. Sager

Smoking has gone from a personal vice to a public health problem to a civil rights violation. In a lawsuit filed in U.S. District Court in Philadelphia, the National Association of African Americans for Positive Imagery, the Uptown Coalition (originally formed in 1990 to protest a cigarette brand aimed at urban blacks), and a group of current and former smokers claim that the marketing of menthol cigarettes to blacks violates their civil rights.

Based on the Civil Rights Acts of 1866 and 1870, which were enacted to protect former slaves during Reconstruction, this lawsuit marks the first attempt to sue tobacco companies under federal civil rights law rather than personal injury or product liability statutes. The suit alleges that blacks account for 60 percent to 70 percent of menthol puffers and argues that since the soothing effect of menthol enables deeper inhaling, menthol cigarettes have a disparate impact on black smokers' health.

The plaintiffs want tobacco companies and industry groups to make public all research about the impact of smoking on blacks. It also seeks a ban on menthol cigarettes.

In explaining the use of civil rights legislation, plaintiffs' attorney Stephen Sheller told CNN that the acts were "intended to prevent targeting black people in ways that take advantage of them."



DATA

Population Bomb

By Michael W. Lynch

In a 1989 book review for the *Los Angeles Times*, National Park Service biologist David M. Graber notoriously opined that humans had "become a plague upon ourselves and upon the Earth" and that "some of us can only hope for the right virus to come along." The United Nations latest population projections indicate that Graber's "right virus" may have come along: HIV. (See "Wild Idea," page 19.)

According to the U.N.'s latest population projections, the world of 2050 will have 8.9 billion people. Just two years ago, the U.N. had estimated a population of 9.4 billion. The drop is due to declining worldwide fertility, better census data, and the massive effect of AIDS in Africa, the continent with the highest fertility rates and lowest life expectancies. The U.N. hasn't calculated the contribution of each factor, but the human devastation of AIDS is clear. Botswana, where more than one in five adults is infected with HIV, will have 20 percent fewer people in 2015 than otherwise. Zimbabwe, the country with the second highest infection rate, will have 19 percent fewer people in 2015. In the 29 African countries hardest hit by AIDS, life expectancy at birth is currently 47 years, seven years shorter than would be expected in the absence of AIDS.

Life Expectancy at Birth in Countries Hardest Hit by AIDS

	1985–90	2010–15
Botswana (% of adults HIV+: 22.09)	62.5	48.9
Zimbabwe (% of adults HIV+: 21.52)	56.8	50.4
Zambia (% of adults HIV+: 16.62)	50.4	51.5
Namibia (% of adults HIV+: 16.12)	56.0	41.5
Malawi (% of adults HIV+: 12.51)	45.3	48.1
Mozambique (% of adults HIV+: 11.92)	46.2	39.6
South Africa (% of adults HIV+: 11.80)	57.9	47.2
Rwanda (% of adults HIV+: 11.16)	48.2	47.1
Kenya (% of adults HIV+: 10.43)	57.5	51.0

Source: United Nations

Courtroom Shootout

By Brian Doherty

With the smoke of the tobacco industry's settlement with the states still hanging in the air, city governments are turning their attention toward the handgun industry. Chicago and New Orleans have filed civil suits against groups of gun makers, distributors, and sellers; other cities, including New York, Philadelphia, Los Angeles, Tampa, and Boston, are contemplating joining the posse. The cities argue that gun makers and sellers must pay at least some of the costs that municipalities bear while treating victims of gun violence. (See "Smoking Guns," July.)

Chicago has strict gun control, and the city argues that gun makers and dealers are creating a public nuisance by supplying the areas outside the city with more handguns than they need, thus guaranteeing that the excess will end up in Chicago. Charging that legal gun manufacturing and sales constitute a public nuisance is a novel legal strategy—and one whose chances of success seem low. Generally, at- ▶

BRICKBATS

◆ Some teenage boys apparently consider it the height of style to wear their pants so low that their underwear shows. Those young men should avoid Opelousas, Louisiana. It seems some adults there were outraged, and whenever people get outraged, someone inevitably says, "There oughta be a law." The police department said there was. They've started handing out citations for indecent exposure to boys with low-fitting pants.

◆ In Montgomery, Alabama, Cassandra Agee would have the kids on the school bus she drove read and analyze passages from the Bible. When Joseph Brown, a freshman at Robert E. Lee High School, protested, Agee told him to find another way to school if he didn't want to participate. Brown's mother complained, and the school board took swift action. They assigned Agee to another route.

◆ Smashed storefronts. Swastikas on the sidewalk. No, it isn't Nazi Germany. It's Berkeley, California, one of the most liberal cities in the United States. And that explains why Andy Ross' store has been vandalized and why he has been receiving postcards calling him a "cancerous Jew." Ross has been a leader among store owners who've been trying to get the city to stop homeless people from loitering outside their shops. Ross and city officials agree that his efforts have led to the harassment he's been suffering.

—Charles Oliver

Scott Stantis

tempts to characterize legal, regulated businesses as nuisances have failed in court.

The New Orleans suit also pursues a novel strategy. It argues that a lack of safety features—such as a mechanism that would ensure only specific users can fire a gun—means that gun manufacturers and vendors should be liable for mayhem involving their products.

"This lawsuit is a turning point in our efforts to force the gun industry to make a safer, childproof, 'personalized' product," a spokesman for the Center to Prevent Handgun Violence, which is serving as New Orleans' co-counsel, told the press. New Orleans is suing over 20 gun makers, trade associations, and dealers.

Such arguments have not prevailed in private actions. In November, for example, a California jury dismissed *Dix v. Beretta*, in which the plaintiff argued that a 14-year-old boy would not have been shot and killed had the pistol been equipped so that only an "authorized" user could have fired it.

But legal precedents may prove irrelevant, particularly in the New Orleans case, cautions Jon Vernick, associate director of the Center for Gun Policy and Research at the Johns Hopkins School of Public Health. He notes that while gun manufacturers typically win strict liability cases, suits like *Dix v. Beretta* and the New Orleans filing make a subtly different argument about design defects: These suits say that the weapons could—and should—have been made safer than they are. While one California jury found that argument less than persuasive, it's impossible to predict the fate of the New Orleans case, Vernick says.

The gun industry says it's armed and ready for long legal battles. That's partly because it has no other option, says Bob Ricker of the American Sports Shooting Council, a gun industry trade organization and a defendant in the New Orleans suit. Unlike the tobacco companies, explains Ricker, gun makers lack the deep pockets to finance a settlement that might satisfy the dozens of city governments that could come after them.

Desperate Measures

By Ryan H. Sager

Desperate times call for desperate measures. Last fall, New York State Attorney General Dennis Vacco was desperate as election day approached and he found himself in a neck-and-neck race with Democratic challenger Eliot Spitzer. The desperate measure he took: seizing the computer servers of two Internet service providers as part of a high-profile, international child-pornography bust called Operation Ripcord.

The action targeted "Pedo University," an online newsgroup of pornographers that trades electronic images of adolescents engaged in sex acts. Last October, law enforcement agents in 12 states and four countries arrested a total of 13 suspects for possession and transmission of child pornography.

Vacco's prey, however, was not suspected child pornographers. It was Syracuse's Dreamscape and Buffalo's BuffNET, two ISPs whose only crime may have been operating in areas where the attorney general needed votes. While it is illegal to distribute or possess child pornography, no state or federal law requires ISPs to moderate newsgroups. Although hundreds of New York-based ISPs carried the newsgroups on which members of Pedo University traded files, Dreamscape and BuffNET were the only two to have their servers seized, raising charges of politically motivated prosecution and investigatory overreach.

Noting that none of the individuals arrested in Operation Ripcord had accounts with Dreamscape or BuffNET and that no charges have been filed against either provider, BuffNET Vice President Mike Hassett asks, "Isn't it intriguing that [Vacco] chose only two ISPs, both in upstate New York? Is it coincidence that Vacco won his last election relying on upstate New York votes? Why weren't the other 1,000-plus ISPs in New York state a target of his investigation?"

Vacco's action also has troubling implications for all ISPs, says BuffNET's attorney, Steven Fox, who has likened seizing equipment that merely provided subscribers with access to Internet newsgroups to "seizing envelopes to combat mail fraud." Vacco's office refused comment on the matter.

While neither ISP faces criminal charges, both have incurred costs for legal fees, equipment replacement, service interruptions, and massive bad publicity. Vacco, too, has problems: He lost a tight race ultimately decided by absentee ballots.

SOUNDBITE

Wild Idea

By Michael W. Lynch

In a 1989 *Los Angeles Times* book review, National Park Service ecologist David M. Graber forcefully articulated the anti-humanism that informs much of the environmentalist movement. "Human happiness and certainly human fecundity, are not as important as a wild and healthy planet," wrote Graber. "We have become a plague upon ourselves and upon the Earth....Until such time as Homo sapiens should decide to rejoin nature, some of us can only hope for the right virus to come along."

Last fall, the United Nations released a report on world population growth that suggests Graber's dream virus may have come along in the form of AIDS. (See "Population Bomb," page 17.) Washington Editor Michael W. Lynch talked with Graber in December via telephone to find out what he thought about the U.N. data.

Q: Is AIDS the "right virus" for you?
A: I have no idea where AIDS is going to take us. The point I was making [in the review] was that, from the standpoint of just about every other living thing on the planet, human beings are a plague. That's still an accurate and safe assumption. Anything that reduces human populations or reduces their growth is a benefit to just about everything else on the planet. Whether that's desirable for human beings is a completely different issue.
Q: So from the point of view of the planet, AIDS is good?
A: It's a very complex issue because [AIDS] also fouls up the economies of countries. That, in turn, can have other kinds of ecological consequences. Broken economies can lead people to consume primary resources at a faster rate if distribution breaks down. It isn't just how many people you have on the planet. It's how many resources they use. For example, because we use far more resources, Americans are much more expensive to the planet than people in the Third World. Somebody dying in central Africa reduces the impact on Earth much less than somebody dying in the United States. It's not a simple question. I know you would like a simple answer, but I'm not going to give you one.
Q: So if AIDS were having the sort of effect in the First World that it's having in the Third, that would be a good thing?
A: It would be a good thing for other organisms. It certainly wouldn't be a good thing for people who were dying or their families. Ecology is a game where some win and some lose. Death is by far the crudest and cruelest solution to a problem of crowding.
Q: Why put humans on the same level as other organisms?
A: If we were to ask other organisms, they would say, "I've got a lousy deal here; those human beings are my plague." Human beings are unraveling the very stuff of nature with every passing day. From a *human* viewpoint, and given how we're heading, we need to ask: Do we want to live on a planet that looks like New Jersey or England, with no wild animals, no rainforests, no wildness?

Michael and Me

In which our man in Washington celebrates diverse foods, enjoys Philip Morris' largess, and debates Social Security reform with a leftist documentary maker

Date: Wed, December 2, 1998 3:24:59 PM
From: mlynch@reasondc.org
Subj: Season's Greetings

The Christmas, excuse me, holiday season commenced yesterday, marked by the arrival of the Philip Morris gift box, a Philadelphia Cream Cheese box the size of a small suitcase, stuffed with such Kraft Food favorites as "Cheezin 'n Squeezin pasteurized process cheese sauce," "Shake 'n Bake Perfect Potatoes Crispy Cheddar," and "Toblerone Mini."

I'm not ungrateful for the gift. I will no doubt use many of the products, and the family my wife Diana and I adopt for Christmas will probably make some use of the Cheeze Wiz. Still, one must fight off disappointment upon opening such a large box "From the Philip Morris Family of Companies"—a family that includes Miller Brewing and Philip Morris USA, the maker of Marlboros and distributor of Macanudos—and finding only Kraft's processed products, all of which have a shelf life that make them eligible for the Y2K stockpile. Why treat the good stuff, the very stuff of holiday cheer, like a redheaded stepchild?

December 1 also kicked off the holiday party parade. D.C. over the holidays is like a small town in which everyone wants to throw a party. The problem isn't getting people to show up—Where else would one eat dinner in December?—but finding enough days for all the parties. The U.S. Chamber of Commerce was first out of the chute.

The reception, sponsored by the Chamber's "Office of Congressional Affairs," was held in the Chamber's flag room, an ample ballroom with a bunch of Latin written on the dark wood of the Italian Renaissance ceiling. Julie DeFalco, a former Competitive Enterprise Institute analyst who defected to the Chamber to write speeches for its president, Thomas Donohue, informed me that the theme was "exploration."

"I'm the one who put you on the list," she told me, after I commented that I quite liked the organization of food choices by continent. I had already sampled two fajitas and a couple slivers of quesadilla at the Latin American table. I had traveled to Asia, where I piled a plate high with dumplings, pad thai, and the evening's most popular dish: duck, plum sauce, and a reed of green onion wrapped in a small Chinese tortilla. I always maintain that the best thing about multiculturalism is the food. (Celebrate Diverse Foods—the slogan of D.C. conservative inclusion.) "Maybe you can do one of your letters about it?" she suggested.

There were a lot of dark suits in the room, and I managed to get some work done. I ran into a staffer for the Senate leadership, who will remain anonymous so I can share his insights. "What's the thinking on Social Security?" I inquired as we waited for our turn at the bar, knowing he was helping to formulate the political game plan. We're not going to do anything until Clinton comes up with a plan, he replied. Otherwise, he'll "punch the piss out of us." There you have it. The 106th Congress is preparing for battle with Clinton like a battered wife prepares for her husband's return from the bar.

I also ran into a professional staffer on the House Education Committee. He talked about being part of the machine that he used to rail against in his former life as a nongovernment employee. He deals a lot with bureaucrats in his new position. His report, which I absorbed while working on a large glass filled with Absolut Vodka and a splash of tonic, is that life-long bureaucrats are stupid, in addition to being petty and lazy, although there are certainly exceptions.

He's learning a lot. The nice thing about being a professional staffer, according to this fellow, is how easy you can carve out a bit of turf that you can dominate legislatively. Even the congressmen and congresswomen can only abuse you so much, since they depend on your expertise. It's an easy way to make a career, he said, although he's not planning on it.

Diana and I made one more pass through Asia—each picking up another duck roll—and headed out the door. We were home, buzzed and full, by 8:15. Nothing like December.

Date: Fri, December 4, 1998 3:43:40 PM
From: mlynch@reasondc.org
Subj: More Holiday News

The American Legislative Exchange Council cordially invited me to attend its holiday reception last night. Actually, upon hearing of it from my Institute for Justice suite mates, I called and invited myself, telling Eric Caron, ALEC's press guy, that I was doing a series on holiday parties in Washington. ALEC is hosting an annual meeting this week, and since it caters to Washington outsiders and wannabe insiders, a.k.a. state legislators, I thought it would be an interesting contrast to the usual Washington party. This just meant that I didn't know many people there.

Entering the reception at the Renaissance Hotel, I was confronted with two things. Well three things: a banner wel-

HENRY PAYNE

coming me from the family of Philip Morris companies, a bar sponsored by that generous family, and Caron. "Philip Morris is picking up the tab?" I asked, after brief pleasantries. The entire thing, he said. Noticing my firm grasp on a bottle of Miller Genuine Draft, he bragged: "This isn't even a Miller hotel."

I begged off, telling him it was time for me to gather news. I immediately ran into a gang of I.J.ers. "Where else can you find crab quesadillas at one of these things?" enthused I.J. attorney and Randian music critic Scott Bullock. The band was playing the Gap theme song—"Jump, Jive, and Wail." I decided to peruse the food tables.

There were indeed crab quesadillas. But they were distinguished from the rest of the fare, which consisted of trays of cheese, crackers, and raw vegetable platters. As a result, they were oversubscribed, and a line of eager legislators had formed. As the cook removed a burnt quesadilla from her pan, I decided not to wait for a sample.

The lights were low, making it hard for people to schmooze. It took more than the usual brief glance at someone's name tag to pick up the vitals. "Is your surname Reason?" a man asked in a Crocodile Dundee accent. I explained that I worked for REASON, a magazine, and was doing a story on holiday parties. "ALEC is brilliant," at "bringing politics and business together," he offered. It turns out that this fellow, Kym Bonnefin, is planning to do such a thing in Australia, which, he informed me, is composed of the same original stock as America. "Criminals," I replied. Kym soon moved on, but not before telling me that he had to meet 90 percent of the people in the room.

I was itching to leave, when I spotted the Reason Public Policy Institute's Ken Green. I headed over for a chat. "What are you doing here?" he asked, as if it were an exclusive gig, rather than an annual stuff-your-face fest. When I told him I was "covering the spreads," to borrow a line from Steve Postrel, for my column, I could tell he hadn't a clue of what I was talking about. You know, my Capital Letters column, I coaxed. No recognition. "Now Jacob's stuff I read," he jabbed, as I was giving him grief about not reading the magazine. "Did you read my last policy study?" he shot back. He had me pinned. It was time to leave.

Date: Wed, December 9, 1998 7:36:27 PM
From: mlynch@reasondc.org
Subj: White House Social Security Conference

Headed to the White House conference on Social Security yesterday, which was held up at the Woodley Park Marriott near Chuck Freund's place. Popping out of a cab at 8:25 a.m., I managed to get my credential, make it through the metal detector, and slither to a seat right before a disembodied voice announced President Clinton's entrance. The only seat I could find, coming in a bit late, was to the stage's left, which happened to be just behind the section reserved for the day's presenters. So while I awaited the president's arrival, I found myself staring at the back of Norm Ornstein's head and listening to talk of "caps" and "rates of return." A fellow in front of me, who I later discovered was former Congressional Budget Office Director Robert Reischauer, was reading a critique of Martin Feldstein's partial privatization plan by the Center for Budget and Policy Priorities. He would later read a document titled "AFSCME Opposes All Forms of Social Security Privatization," or something to that effect. This about sums up the approach the labor and left wings of the Democratic Party.

This conference was a big deal, which was reflected by the presence of high-rent policy wonks and more than a handful of congressmen. But while it was ostensibly designed for dialogue, no one was interested in listening to anyone else. And why should they be? The president talked eloquently about "putting progress ahead of partisanship," the need for everyone to "sacrifice their view of the perfect to work for the common good," and ended his talk by thumping the podium in an admonition to work together. But like most of what comes out of his mouth, this was just convenient blather. Social Security is like any other issue in Washington. It's about politics and spin: Doing what's right is but a tertiary consideration. And it was only after the president left the room that the real business—which C-SPAN's cameras, so diligently pointed at the stage, don't capture—commenced: the spin operation

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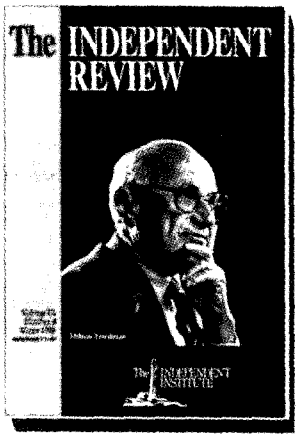

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in the back of the room.

I made the mistake of retaking my center-of-the-aisle seat for the second panel, which consisted of two people who must have distinguished themselves in Washington's wonk world but whom I had never heard of and hope to never hear from again: Marilyn Moon and Rudy Penner. (For the sake of diversity, they are both from the Urban Institute.) As they did their best to accurately portray a dull, dull, dull topic, the din from the back of the room grew louder. I decided to shimmy out of my seat and join the noise.

I located the source of the noise behind the bank of cameras. A gaggle of reporters surrounded an ample, bearded man, whom I didn't recognize but who was most likely from the White House. Many others were talking on cell phones. "I think it went fine," I overheard Sen. Rick Santorum (R-Pa.) tell someone on his phone. Santorum had earlier delivered a speech. And as harsh a critic as I am, I must say his assessment was correct. He had presence, and props. The president even took notes. Santorum articulated a clear case for individual accounts, taking head-on the argument that we must keep the current system intact because it privileges women and widows.

The wife of a man who worked his entire life but died at 61, just a year prior to eligibility for early benefits, would receive a whopping $255 death benefit, explained Santorum, as he held up four bills totaling that amount. Now if that same man had invested his taxes in an individual account, Santorum continued, his bereaved wife would receive more than $260,000, and he pulled out a foot-high stack of faux money. Clinton's eyes lit up: Perhaps he was thinking the cash would be of use for his legal bills. After Santorum finished his speech, he even let Clinton fondle the money.

I was able to get a short interview with Santorum. "In light of your bold advocacy for individual accounts today," I led, buttering him up, "do you think it's wise to do nothing until the president sends a complete plan to Congress?" He replied that he planned to introduce legislation in January, but that the president needs to lead.

The din must have grown unbearable for those trying to listen to the official program, because White House staff were pushing us upstairs. I finished my interview with Santorum just as we reached the top of the staircase. There was filmmaker Michael Moore, with his entourage of camera people, producers, and writers. He was soon interviewing Santorum, who should have had the good sense to stay away but who, like Reps. Mark Sanford (R-S.C.) and Clay Shaw (R-Fla.), was drawn to Moore's celebrity and camera like a bug to a zap lamp.

This, my friends, is how Washington insiders and reporters meet real people. Interest groups provide them to us. It's like a traveling zoo.

I stood surveying the scene. Gene Sperling, the White House point man on Social Security, was surrounded by reporters, speaking, no doubt, the truth in very serious tones. (I only know it was Sperling because a White House flack suggested I might want to join the crowd.) An older woman, a real live senior citizen, handed me a paper coffee cup. It was Betty Miller from the National Council of Senior Citizens (NCSC), a labor-backed seniors group adamantly opposed to any change. The cup entitled me to a free cup of coffee. But it was really an attempt to play on my fears. "The Social Security Debate in a Cup," the cup read. "Should the current system be scrapped so Americans can invest 2 percent of their income—the price of a cup of coffee a day—in a volatile stock market?"

Miller, a retired government worker, lives on Social Security and a bit of other income. She was there for first-person testimony on how important the program is. But I was not to take her word for it—she pointed out two other seniors who live exclusively on their Social Security checks. This, my friends, is how Washington insiders and reporters meet real people. Interest groups provide them to us. It's like a traveling zoo.

Another NCSC activist, a woman not quite eligible for Social Security, later accosted me. "Have you talked to someone who lives entirely off Social Security?" she asked, pointing to two women. I showed her my cup in an attempt to end the conversation. But this wasn't enough, as she wanted to provide me with the human element. I pulled out my notepad, revealing Betty Miller's name under a page of scribble. "Betty, that's good," she said, and I was free.

Moore, by this time, was free too, and I sneaked passed his producers, writers, and cameramen and introduced myself. REASON—I know you guys, he said. You're 50 percent right, but forget that we are part of a human family. I had seen Moore at Ken Starr's congressional testimony and, given that the White House was testifying today on the Hill, I was interested in his news judgment in choosing to cover a conference on Social Security. "That's not an issue," he said. "That guy just lied about sex. Find me one guy who hasn't lied about sex. Some of us guys, the only way we get sex is to lie." Moore's producers soon separated us. "Got to work," he said, as he walked away to interview Congressman Shaw.

But I was soon back, with tape recorder in hand. I wanted his opinion on Social Security. "It should not be in the private sector at all," said Moore, who became more animated and quicker with the quips when his camera's light came on. "This is a public responsibility to take care of our people when they become old."

What about the argument that we need a better rate of return? I asked. "That's true." he said. " Why can't you do that investing in the market and having it controlled by the government. What's wrong with that?"

"Some would argue that's creeping socialism," I said, putting a little reportorial distance between myself and this opinion. "I want socialism to creep as fast as it can into the world because as an Irish Catholic all that word *socialism* means is that income should be fairly distributed and wealth should be fairly distributed among the people," Moore responded. "The camel will have an easier time getting through the eye of a needle than a rich man getting into heaven."

It was 11:40 a.m. I was hungry. I left for lunch.

Date: Wed, December 9, 1998 8:02:44 PM
From: mlynch@reasondc.org
Subj: Moore's Tripped Up

Yesterday at quitting time I headed over to the Hay Adams Hotel, where a celebration was being held in honor of Mark Davis and Gary Aldrich, who had just co-authored a novel, *Speak No Evil*. I arrived about a half-hour late, circa 6 p.m. The room was packed and abuzz with talk of D.C. celebrities, Aldrich himself counting as one in some circles. (He is the FBI agent turned bestselling author whose book *Unlimited Access* alleged all sorts of White House "shenanigans.") Someone pointed out Donna Rice-Hughes, of Gary Hart fame, who is now an anti-porn activist. And several people told me that Linda Tripp was scheduled to appear.

About midway into Aldrich's speech, Tripp arrived, basking in the lights of an adoring TV camera. People who tell the truth about this town shouldn't be chained to the back of a pickup truck and dragged through the streets, said Aldrich, who soon would ask for a round of applause for those bold enough to tell the truth.

After the speeches, I edged my way to the bar to pick up a beer. Tripp was nowhere in sight. I ran into former *America's Voice* anchor Genevieve Wood. The topic somehow turned to Gus Van Sant's remake of *Psycho*. "I don't need to see any lesbians," blurted Wood. I turned around and was facing Linda Tripp.

"My name is Michael Lynch. I am from REASON magazine," I offered, as I shook her hand. My eyes were oscillating between her eyes and a diamond-studded brooch covering her blouse's top button. I was paralyzed, not knowing what to say. "I, too, tape my phone conversations with a Radio Shack recorder," came to mind, but I thought better of it. "So what did you think of the impeachment hearings today?" was another possibility, although I was sure others would use it.

She had registered recognition when I mentioned REASON, perhaps believing in free minds and free markets. Finally, with nothing intelligent to say, I resorted to flattery. I told her that while I was bored with the whole thing, there was someone on our staff to whom she was a personal hero. She appeared pleased.

I was soon out the door. Stepping off the elevator in the lobby, I was again confronted with Michael Moore. I pulled out my notepad and approached him to ask how he squared such digs with his egalitarian outlook. But it turned out he wasn't staying at the hotel, just stalking Linda Tripp. He was being prevented from going to the party by hotel staff.

"I see you everywhere," I said. He asked if I was trying to see Tripp. I told him I had just returned from doing exactly that. I asked him how he felt about being on my Washington beat. He said he didn't like it at all. I may make a libertarian out of you, I twitted, noticing that his mind was someplace else—perhaps on the footage of Tripp he didn't get. "I am half with you," he said. "Pro-choice, legalize drugs, keep the government out of our bedrooms, even when they are attached to the Oval Office." As I walked to the Metro, I thought, That's the part of libertarianism I like best too. Although I don't think there's a bedroom attached to the Oval Office.

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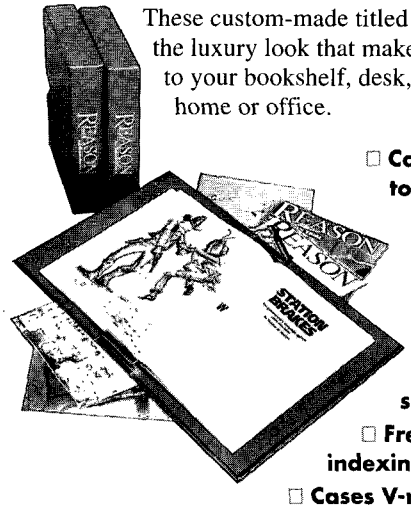

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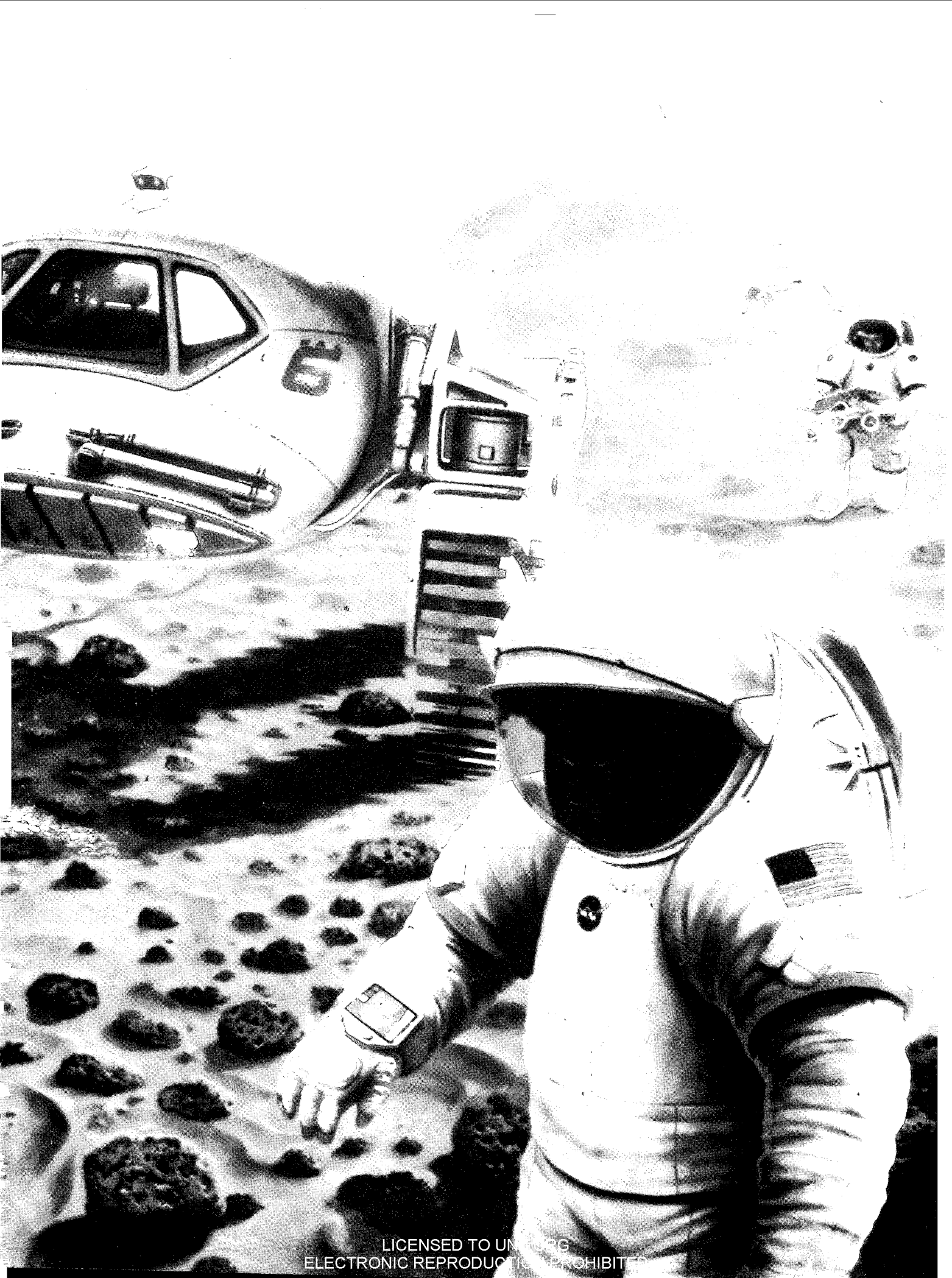
Martian Chronicle

Mars may well be the next great frontier. But what kind of world should we make there?

A couple of years ago, after hearing an engineer named Robert Zubrin rhapsodize about his plan for a privately financed expedition to Mars, I tried out the idea on America's masters of marketing. I sent an outline of the scheme to Bill Gates, Ted Turner, Barry Diller, Peter Uberroth, television executives such as ABC's Roone Arledge and NBC's Don Ohlmeyer, the leaders of DreamWorks, and a long list of other people whose names tend to be accompanied by the word visionary. I wasn't asking for money, just for their thoughts on how humanity's interplanetary adventure could be packaged profitably, but most of them didn't even want to think about it. Except for a few enthusiasts, they couldn't imagine how you could make the trip interesting enough to pay the bills. How could you hold the audience for such a long trip to such a desolate place?

NASA

By John Tierney



LICENSED TO UN PG
ELECTRONIC REPRODUCTION PROHIBITED

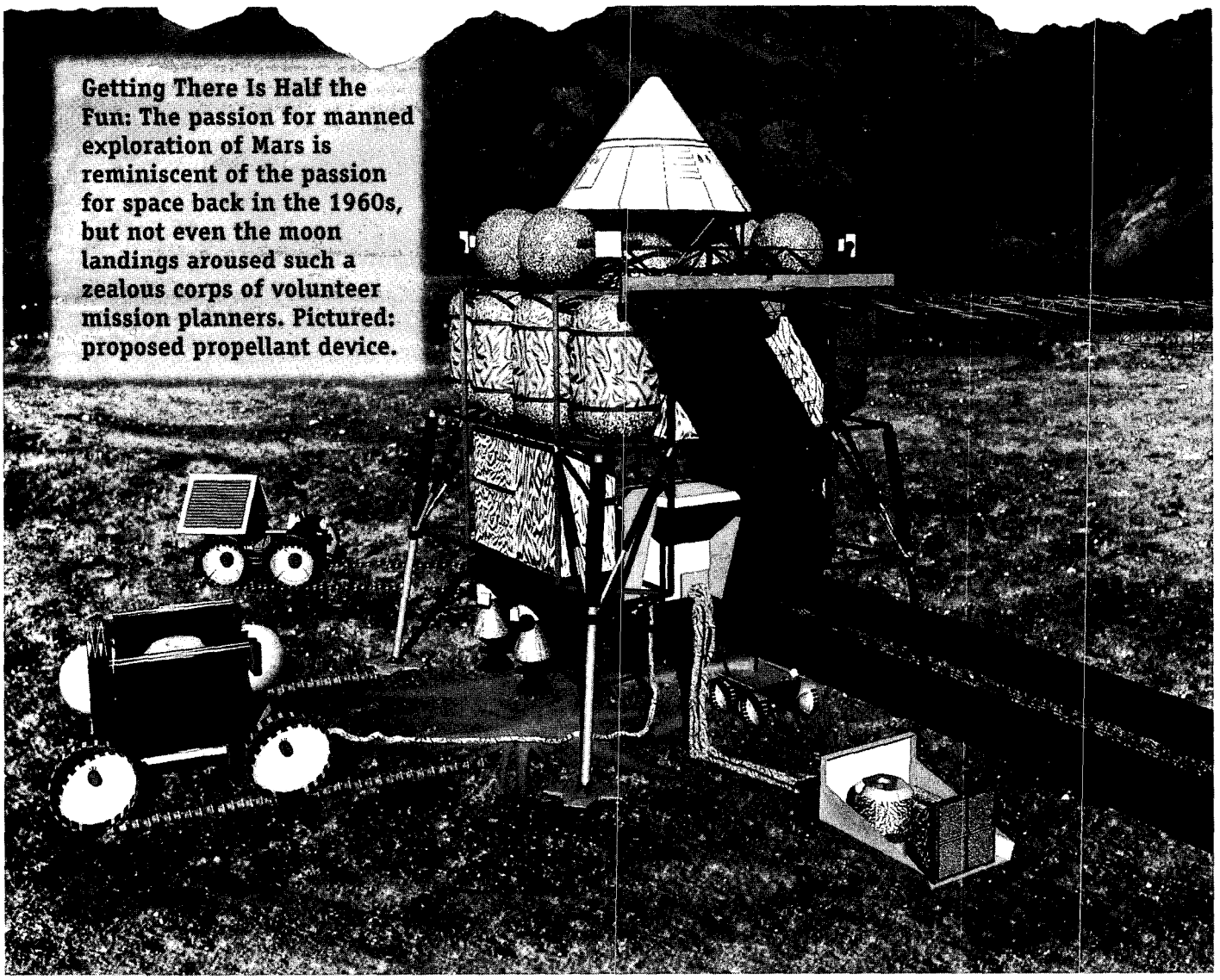
"Personally," Barry Diller explained, "I don't care about going to Mars."

Personally, I did. But I didn't presume to know as much about the mass audience as Diller and his fellow moguls. They knew how short the public's attention span could be; they remembered how quickly people had gotten bored with the Apollo program. What, really, was the point of going to Mars? If the idea made any commercial sense, why wasn't someone working on it? I wondered if Zubrin was hopelessly unrealistic—until this past summer, when he managed to get 700 people from 40 countries to travel to Boulder, Colorado.

Officially, it was the founding convention of the Mars Society. Unofficially, it was the Woodstock of Mars, a horde of scientists, entrepreneurs, schoolteachers, lawyers, writers, engineers, college students, musicians, computer geeks, and assorted hustlers wearing "MARS OR BUST" buttons. They ranged from space hobbyists to the president of a company working on a privately financed mission to survey an asteroid. They debated the cost of spaceships and whether to power the Mars land rover with a nuclear reactor. They bought Mars trinkets and pictures. They analyzed details ranging from the proper Martian calendar (there are dozens of competing systems) to the mechanics of creating a breathable atmosphere on Mars.

And they cheered Zubrin, who is one of the more riveting engineer-orators in history. A short man with intense dark eyes and a passionate speaking style—he can bring to mind Savonarola—he railed at the stagnation that would afflict humans without a frontier to conquer. He extolled the Europeans who crossed the Atlantic 500 years ago to find freedom in the New World and the Africans who left the comforts of the tropics 50,000 years ago for the cold, harsh regions where they were forced to develop the tools that made civilization possible. "Humans did not leave paradise because they ate of the tree of knowledge," he proclaimed. "They ate of the tree of knowledge because they left paradise." The audience gave him a two-minute standing ovation.

In some ways it was reminiscent of the passion for space back in the 1960s, but not even the moon landings had ever aroused such a zealous corps of volunteer mission planners. These people wanted much more than another Apollo program, whose achievements they dismissed as "flags and footprints." Their heroes were from earlier eras of exploration: Columbus, the



Getting There Is Half the Fun: The passion for manned exploration of Mars is reminiscent of the passion for space back in the 1960s, but not even the moon landings aroused such a zealous corps of volunteer mission planners. Pictured: proposed propellant device.

NASA

Pilgrims, Lewis and Clark, the settlers of the American West. As they put it in their society's founding declaration, "The settling of the Martian New World is an opportunity for a noble experiment in which humanity has another chance to shed old baggage and begin the world anew."

They were dangerously close to utopianism—which at first seemed odd, given that Zubrin and a good many of the others are libertarians. Ordinarily, libertarians are too busy opposing politicians' utopian schemes to be preaching their own. But as they fantasized about casting off the chains of earthly governments, the Mars-libertarian connection began to make sense. Mars gives libertarians a rare chance to be *for* something, to present a grand vision of freedom instead of merely trying to fend off the latest excesses of big government. Building the future is a splendid alternative to the drudgery of deregulating and privatizing the present. Spaceships and extraterrestrial colonies evoke the sort of emotions inspired by cathedrals in the Middle Ages—or, to use a more recent example, by modern architecture in *The Fountainhead.*

Libertarians can appreciate Mars in a way that Barry Diller and his fellow moguls can't. A desolate planet free of earthly institutions is more appealing to libertarians than it is to the corporate elite, just as the New World was more appealing to the Pilgrims and other contrarians than it was to the European aristocracy. It will take some doing to settle Mars, but libertarians have a crucial advantage. They're not expecting government bureaucrats to do the job. They know better than to count on NASA.

Four decades after the Lewis and Clark expedition, the American West had been mapped by trappers and was being rapidly settled by farmers. It has now been nearly four decades since the first explorers went into space, and what do we have to show for it? Chiefly two government programs that have created lots of jobs and produced massive cost overruns: the space shuttle and the space station. Rick Tumlinson, the president of the Space Frontier Foundation, is grateful that NASA did not exist in Thomas Jefferson's day.

"Suppose," Tumlinson says, "that when Lewis and Clark returned from their trip, Jefferson had told them, 'Mr. Clark, you develop a Conestoga shuttle. Mr. Lewis, I want you to build a national cabin.' And 30 years later they had three or four Conestoga shuttles, and they were just beginning to build the national cabin. That's where we are today."

Admittedly, space poses more logistical challenges than the American West. But NASA has shown a genius for complicating those challenges. It is burdened not only by bureaucratic inefficiency and pork barrel politics (every superfluous job means votes in someone's congressional district) but also by the public's aversion to risk. Private explorers can afford to fail and risk lives; NASA's leaders are expected by politicians and the press to prevent any loss of life or damage to "national prestige." They're forced to avoid another *Challenger* disaster at all costs.

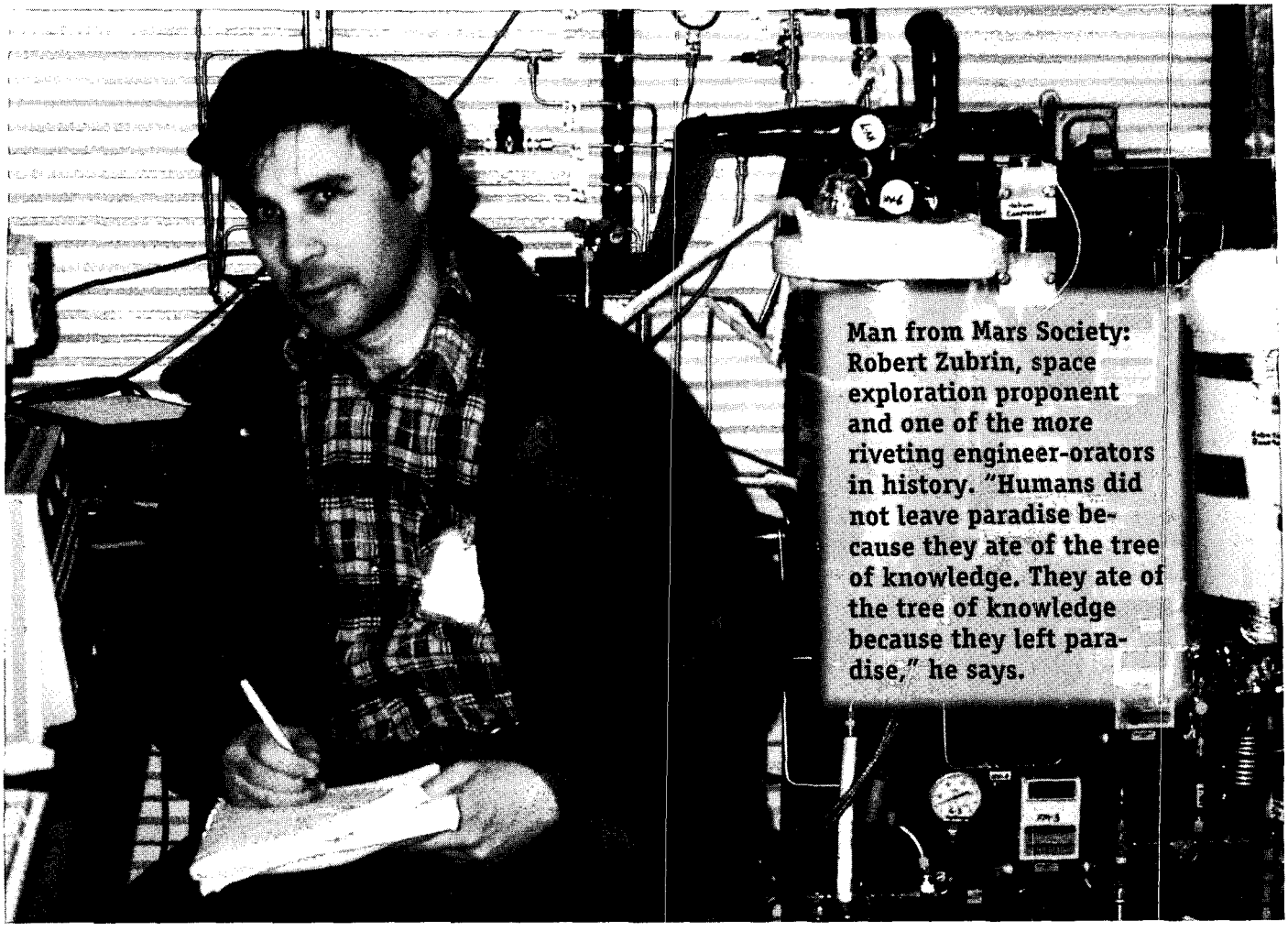
"The cost of space travel ought to be declining with new technology, but it's not," says Edward L. Hudgins, director of regulatory studies at the Cato Institute. "About three decades after the Wright brothers' flight, the commercially viable DC-3 was flying. But today the cost of placing payloads into orbit on the shuttle is 10 times higher than it was during the Apollo program. By contrast, in the past 20 years the cost of airline tickets per passenger mile has dropped by 30 percent, and the cost of shipping oil has dropped 80 percent."

It has now been four decades since the first explorers went into space, and what do we have to show for it? Chiefly two government programs that have created lots of jobs and produced massive cost overruns: the space shuttle and the space station.

NASA's profligacy became absurdly obvious in 1989, when the agency was asked by President Bush to plan a mission to Mars. It responded with a $400 billion proposal to build a 1,000-ton interplanetary spaceship the length of a football field, which would have carried all the fuel for the return voyage. It would have been assembled in orbit because it was too large to be launched from Earth—"the battlestar *Galactica*," as Zubrin dubbed it. At the time he was an engineer at Martin Marietta Astronautics and a member of an informal group called the Mars Underground that met occasionally to dream of interplanetary travel. He and a colleague at Martin Marietta, Donald Baker, came up with an alternative to NASA's battlestar *Galactica* by adopting the philosophy of Roald Amundsen, the entrepreneurial Norwegian who explored the polar regions early this century.

Besides winning the race to the South Pole, Amundsen was the first person to sail the Northwest Passage, which he accomplished by avoiding the mistakes of the British Navy. As the NASA of its day, the Royal Navy in the 19th century sent one lavishly provisioned expedition after another in search of the Northwest Passage, but the large ships kept getting stuck in the Arctic ice, and when the food ran out the men had to return home (or perish, as many of them did). Amundsen, who was financing his own expedition, bought a small fishing boat and took a crew of just six. Unable to bring huge stores of food, he learned to live off the land by hunting caribou as he maneuvered the small boat through the ice all the way from the Atlantic to the Pacific.

"Amundsen's expedition was a brilliant example of a small group of explorers succeeding on a shoestring budget," Zubrin says. "Lewis and Clark's was another. Before their journey, armies with big baggage trains had failed to make any signifi-



Man from Mars Society: Robert Zubrin, space exploration proponent and one of the more riveting engineer-orators in history. "Humans did not leave paradise because they ate of the tree of knowledge. They ate of the tree of knowledge because they left paradise," he says.

cant penetration in the American West. But Lewis and Clark managed to cross the continent with just 25 men."

To reach Mars, Zubrin proposed replacing NASA's huge ship with a vessel small and light enough to be launched directly from Earth. It would not need to carry fuel for the return trip because the Martian explorers, like Amundsen, would exploit local resources: the carbon dioxide in the Martian atmosphere, which when combined with hydrogen brought from Earth, could be converted to methane and liquid oxygen to fuel the return voyage. Zubrin built a machine to demonstrate how easily it could be done, and eventually NASA adopted his idea. It redesigned the Mars mission, lowering the cost estimate from $400 billion to $55 billion, and is contemplating a trip sometime after 2010.

But Zubrin, who's now the president of his own firm in Boulder, Pioneer Astronautics, has pared down NASA's plans to come up with a still cheaper mission. He figures that within a decade a private entrepreneur could get to Mars and back for a mere $5 billion. He's been promoting this idea in lectures and in a book, *The Case for Mars*, that has been translated into half a dozen languages and attracted letters from thousands of Mars enthusiasts around the world. (See "Spaceship Enterprise," April 1997.)

Other engineers estimate the cost of a private mission might be more like $10 billion, maybe up to $20 billion, but even at those prices the trip is not an absurdly extravagant dream. NASA's budget for a single year is $13 billion. For the estimated cost of building and operating the space station, $100 billion, you could send a fleet of Zubrin's ships to Mars. By NASA standards, the cost of a private Mars mission is chump change.

But by venture capital standards, it's a lot of money for a highly speculative endeavor. To pay for the mission, Zubrin and members of the Mars Society have been analyzing the financing techniques of pre-NASA explorers and looking for new ideas. Some possibilities:

The Mars Prize. Zubrin tried selling this idea during a dinner with then–House Speaker Newt Gingrich, who got so enthusiastic that the meal lasted for four hours. But Gingrich never followed through on the proposal, which calls for Congress to promise $20 billion to the first explorers who reach Mars and return. In case that prize isn't enough to interest entrepreneurs in such a risky all-or-nothing venture, Zubrin also envisions offering smaller bonuses for achieving technical milestones along the way, like sending the equipment for making fuel to Mars.

Prizes have been used in the past to spur public-private ventures in exploration. Fifteenth-century Spanish and Portuguese rulers offered financial inducements to captains who ventured down the African coast and across the Atlantic. In the 19th cen-

tury, the British Parliament offered cash awards for reaching the North Pole and for venturing westward into the Arctic ice: a prize of £5,000 for reaching 110 degrees west, double that for reaching 130 degrees, and triple that for 150 degrees.

For politicians, the most appealing aspect of the Mars Prize is that they could reap the publicity of announcing it without having to pay for it immediately. They could present themselves as both patrons of exploration and opponents of make-work government programs. NASA would surely object to the proposal, and so might libertarian purists, who could argue that there's no need for the public to finance any kind of Martian adventure. But to some extent, the knowledge gained from Martian exploration would be a public good; so would the national glory, for whatever that's worth. And there's always the preservation-of-the-species argument: By supporting the exploration of a potential new home, the public is buying insurance against Earth's becoming uninhabitable.

The Mars Prize would certainly be more defensible than NASA's current monopoly on public funds for space exploration. Still, there's no reason the trip must be financed by the government. Entrepreneurial explorers have long profited from the fortunes and egos of...

Rich Patrons. In 1911, William Randolph Hearst offered a $50,000 prize to the first person to fly across America in less than 30 days. Calbraith Perry Rodgers immediately set out to win it in a plane called the *Vin Fiz*, named after a carbonated grape drink manufactured by his sponsor, the Armour Meat Packing Company. He endured 15 accidents on the way from New York to Los Angeles, one of which landed him in the hospital for a month. He didn't meet the deadline—it took him 84 days—but he did complete the trip. Other prizes have been offered for human-powered flight (a $200,000 award claimed in 1978, when the *Gossamer Albatross* flew a mile) and for the first manned, completely reusable spaceship (a $10 million award, announced in 1996 by the X Prize Foundation, that has yet to be claimed).

The Mars Prize would be an expensive proposition, but modern-day Hearsts such as Bill Gates could afford to offer it. Or they could directly finance expeditions, the way wealthy gentlemen supported polar exploration at the start of the century. Robert Peary, for instance, was bankrolled by the Peary Arctic Club, a group of businessmen who paid for the privilege of basking in his company and achieving geographic immortality. Peary and other polar explorers named mountains and glaciers after the American, British, and Norwegian plutocrats who financed the discoveries. Mars' most prominent features, like its 18-mile-high volcano and 2,800-mile-long version of the Grand Canyon, have already been named, but the first explorers there—and certainly the first settlers—could exercise their prerogative to assign new names.

The patrons of Arctic expeditions also sometimes paid to tag along for part of the trip. Peary brought wealthy sponsors on his ship; Frederick C. Cook was accompanied by a sportsman who wanted to hunt. The Mars mission—six months traveling there, two years on the surface, and six months back—might be too grueling a vacation for the typical billionaire. But plenty of other people would pay for a chance to go along, and there's a clever way to get hold of their money.

The Mars Lottery. Perhaps the most promising new idea at the conference in Boulder came from someone outside the aerospace industry. Alex Duncan, a local resident with experience in the commodities business, proposed an international Mars Lottery, modeled on the lottery based in Lichtenstein that raises funds internationally for the Red Cross. A Mars Lottery could be headquartered anywhere and reach a global audience through the Internet.

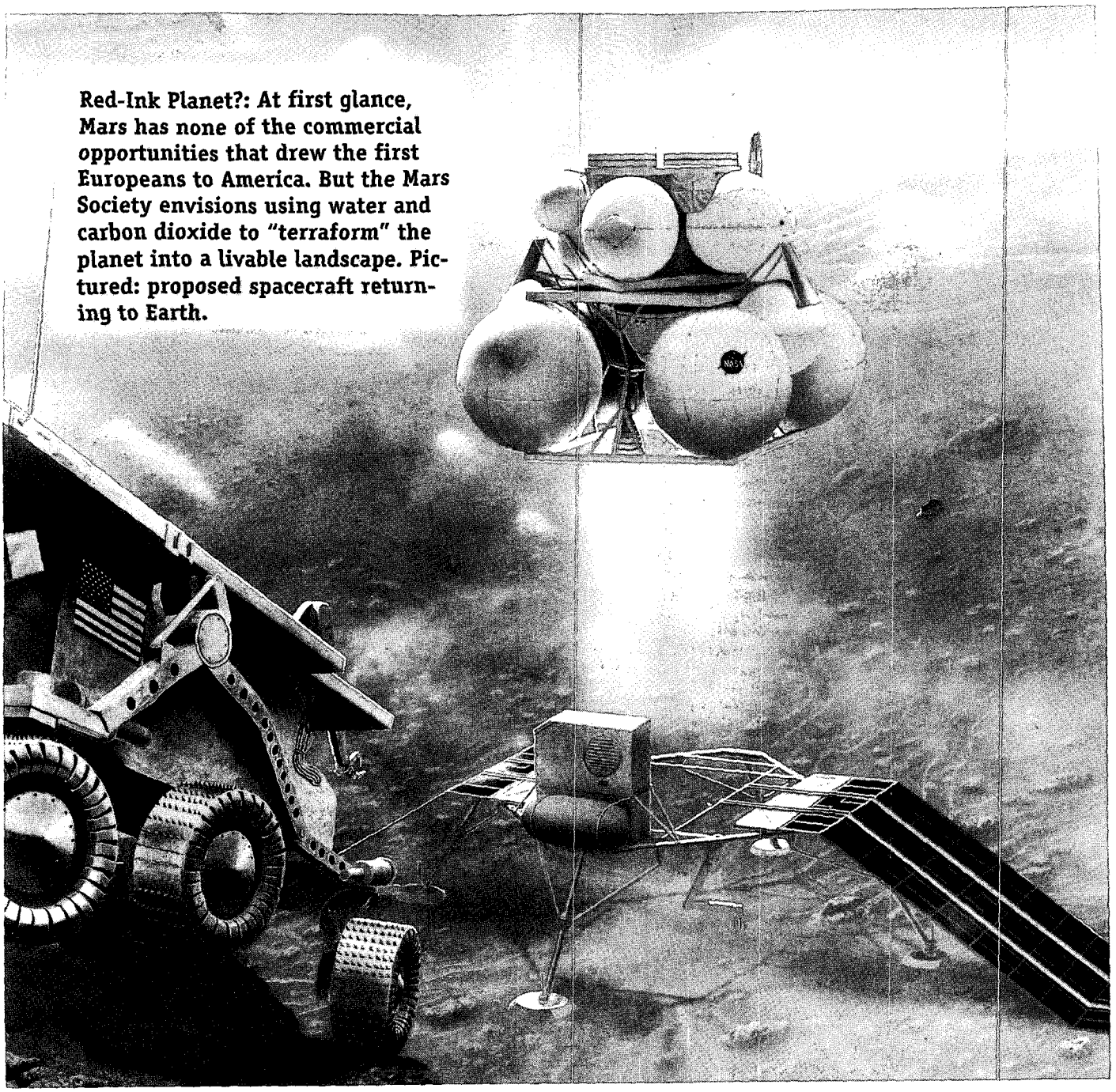
Besides the usual cash prizes, which could be awarded fortnightly or monthly, the Mars Lottery would have two big selling points. First, participants would know that a portion of the proceeds was going to support a private expedition to Mars. Second, and more important, participants would be buying a chance to go themselves. Duncan proposed that all the winners of the regular drawings become eligible for a grand prize: a berth on the first ship to Mars, assuming that the winner of this grand drawing met the physical and mental requirements for the voyage. Duncan figures that the proceeds from this lottery could pay for the whole Mars mission within three to five years.

A variation on his scheme would be to give the winner of each regular drawing the option of trying out for the mission at the explorers' training camp, which would probably be in the Arctic (to simulate the frigid conditions on Mars). The leader of the crew could evaluate dozens, maybe hundreds, of different winners and choose one or two for the trip. This system would produce a better crew and also increase the appeal of the lottery, because each winner would be getting an Arctic adventure in addition to the cash prize.

The Mars scheme sounds outlandish, but there was a time when Europeans couldn't imagine settling the American wilderness either. "From the Spanish point of view," says Robert Zubrin, "the only parts that were valuable were the places with civilized Indians that could be taxed."

Media and Marketing. The Summer Olympics last just three weeks and generate more than $2 billion in fees from television networks and corporate sponsors. The three-year Mars mission has the potential to make much more money, possibly enough to pay for itself, solely with the revenue from media rights and corporate tie-ins.

Just as Henry Morton Stanley charged the expenses of his African journeys to the *New York Herald*, just as Sir Ernest Shackleton paid for his Antarctic voyages with best-selling books



Red-Ink Planet?: At first glance, Mars has none of the commercial opportunities that drew the first Europeans to America. But the Mars Society envisions using water and carbon dioxide to "terraform" the planet into a livable landscape. Pictured: proposed spacecraft returning to Earth.

NASA

and international lecture tours, the Mars explorers could tap into the global appetite for adventure stories. And just as Shackleton exploited the new media of his day—at his lectures in 1910 he showed the first movies from the Antarctic—the Mars explorers could reach a paying audience through new cable channels and Web sites. The media coverage of the mission would attract the same kind of sponsors who pay to be part of the Olympics. Outdoor gear makers and high-technology firms would have a special incentive to have their logos and products associated with the adventure.

Although some sponsors would be reluctant to get involved with a project that could fail spectacularly and fatally, others (especially those selling products to young males) would be attracted by the aura of danger. But the dangers must seem worthwhile; the mission shouldn't come off as a pointless stunt. If the trip appeared to be just a longer version of *Apollo 11*, another enterprise that left nothing but flags and footprints, it would be less appealing to the audience—and therefore to potential sponsors. That's one reason that Zubrin and his disciples focus on analogies with Columbus instead of Neil Armstrong. The vision of Mars as the New World lends the first trip gravitas.

But why would anyone, especially a libertarian devoted to free markets, believe that a Mars colony would be a good investment? The first humans on Mars will encounter horrific dust storms, temperatures of minus 70 degrees Fahrenheit, and an

unbreathable atmosphere. If they stood on the Martian surface without a pressurized suit, their blood would expand and burst out of their veins. Why would it pay to stick around?

At first glance, Mars has none of the commercial opportunities that drew the first Europeans to America. Columbus, who was financed by merchants as well as by Queen Isabella, crossed the Atlantic with the intention of making money. Even after his first goal, a trade route to the Orient, proved unattainable, there were other attractions for investors. The Spanish conquered the natives and took home gold; the French and Dutch set up trading posts in North America to acquire furs.

Mars offers no such inducements, unless you count the souvenir value of its rocks. Otherwise the minerals in its crust appear to be of little value. Science fiction writers like to imagine humans profitably mining asteroids and other planets, but there's no looming scarcity of minerals on Earth. The prices of metals and most other natural resources have been falling for millennia. Unless the prices here rise dramatically, or the cost of interplanetary shipping plummets, space miners won't be able to profitably export Mars' resources in the foreseeable future.

But Mars does have some resources of local value: water, carbon dioxide, and real estate. It contains as much dry land as all the continents on Earth, and the leaders of the Mars Society have big plans for it. They want to "terraform" Mars by injecting chlorofluorocarbons into its atmosphere and setting off a runaway greenhouse effect. As the planet thawed, the atmosphere would thicken with carbon dioxide released from melting ice caps and soil. Add some trees and plants to convert the carbon dioxide into oxygen, and before long humans could be breathing comfortably as they strolled in shirt sleeves on the green planet.

This scheme sounds outlandish today, but there was a time when Europeans couldn't imagine settling the American wilderness either. The Spanish and French leaders, as well as the officials of the Dutch West India Company, didn't initially emphasize permanent settlements of families. They sent mainly single men—soldiers, traders, and trappers—on temporary assignments to extract resources. America was a nice place to exploit, but you wouldn't want to live there.

"From the Spanish point of view," Zubrin says, "the only parts of the Americas that were valuable were the places with civilized Indians that could be taxed. They dismissed the rest as a howling wilderness. The British had a different notion of where wealth comes from. They created farms and towns in New England, turning the wilderness into a domain where social reproduction could occur."

The British settlers, motivated by a yearning for religious freedom, eventually outnumbered and expelled the Spanish, French, and Dutch from most of North America. Isolated from Europe, they created new kinds of communities with new kinds of liberties. "Humanity needs room to play and experiment with ideas in human governance," Zubrin says. "In 1776 Thomas Paine wrote, 'We hold it in our power to begin the world anew.' So they did, and so do we. People will endure the risk and hardships of emigrating to Mars if, like the colonists in America, they can find a higher level of freedom."

Zubrin has come up with 16 new rights he would like to see on Mars, such as the right "to build, develop natural resources, and improve nature," and the right to practice an occupation without a license. "The Martian frontier could be like the frontier in the American West, where you didn't need a license to be a doctor," Zubrin says. "If you got good results, you had a clientele. If you had bad results, you were lynched."

His fellow libertarians have come up with their own bills of rights for Mars, which are being debated on the Mars Society's Web site (www.marssociety.org). What kind of property rights should there be on Mars? Should euthanasia and narcotics be legal? Do Earthlings even have the right to discuss the rights of future Martians? There's a certain absurdity to the debate—and to the very existence of the Mars Law and Governance Task Group—but also a certain glamour. If you're going to conduct a theoretical argument about something as arcane as occupational licensing, you may as well set it in outer space.

Meanwhile, back on planet Earth, the more mundane question remains: Who pays for the first trip? At its founding convention, the Mars Society resolved to raise $1 million to establish its own training base in the Arctic, on Canada's Devon Island, and it's also planning to send its own instrument along on a NASA spacecraft in 2003.

"We might want to send along a balloon that will float above Mars with a camera attached to it," Zubrin says. "We could market that for its entertainment value and advertising revenue. Maybe you couldn't pay for the whole mission with that revenue, but the Mars Society membership would pay for the difference. It's the Jacques Cousteau model: You combine membership dues with commercial revenues from films and documentaries. As you take one little step after another; you build up your credibility to raise the $5 billion for the manned mission."

Already a few entrepreneurs are looking to launch their own

What kind of rights should there be on Mars? There's a certain absurdity to the debate—and to the very existence of the Mars Law and Governance Task Group. But if you're going to conduct a theoretical argument about something as arcane as occupational licensing, you may as well set it in outer space.

missions into space. Two companies, hoping to tap the adventure travel market, have announced plans to build space planes that will take customers for a brief ride just outside the atmosphere. Another firm, Space Dev, has raised $20 million as part of its plan to send scientific instruments to survey an asteroid and sell the data to scientists. But the Mars mission requires investment of another order of magnitude, and even enthusiasts like Zubrin aren't sure the private sector will take the risk anytime soon. As he hopes for a private mission, he's also lobbying for an old-fashioned NASA program.

"I'm a hard libertarian about rights on Mars, but not about getting there," he says. "With something as risky as Mars, it would be useful for the government to absorb some of the up-front costs. Spanish merchants weren't willing to back Columbus' first trip without royal involvement. Lewis and Clark were funded by the U.S. government—and then, as soon as they came back and said there's beaver there, John Jacob Astor's people did their own private exploration that ultimately was much more extensive than the government's. The American government also stimulated the private sector by setting up forts in the frontier, which attracted peddlers who established trade routes in the area. If the government set up a research base on Mars, it would stimulate private competition to lower the costs of delivering cargo."

Once the cost of transport to Mars dropped, real estate speculators might begin to see the planet's potential. One member of the Mars Society, Richard Allen Brown, has proposed that a private company divide Mars into a million plots, each 25,000 acres, and sell bonds giving a 100-year option on each plot. By charging $20,000 for each bond, the company could raise $20 billion. It would invest this capital conservatively and use the income, about $1 billion a year, to finance the exploration and settlement of Mars over the course of a century. If you bought a bond and the land eventually became valuable, you (or your heir) could exercise the option to trade in the bond for a deed to the land. If after 100 years the option still hadn't been exercised, your heir could redeem the bond for the original capital investment of $20,000.

Mars bonds would not be for the timid investor. Even if the land did become valuable, there's no guarantee that your deed to the land would be recognized, because for now there's no internationally recognized method of claiming land in outer space. The vagaries of space property law make a another great topic of discussion among Mars Society members. (See "A Little Piece of Heaven," November.) But then, the first investors in the New World did not have secure property rights either.

"People in England were buying and selling Kentucky back in the 1600s, when it might as well have been Mars," Zubrin says. "No British citizen had been there, and it wasn't clear that British law would prevail—the French and Spanish had claims there too. But the king of England would sell patents to a nobleman, who would sell pieces to capitalists willing to speculate on the British. They'd hire someone to survey it, and then, if there were good prospects, they'd sell the land at a profit or start developing it by sending in settlers."

It's conceivable that the interplanetary version of the French and Indian War would be a conflict between rival companies or countries trying to claim Martian real estate. Perhaps more likely, the war could pit speculators against those who wanted to preserve Mars from capitalist development. Already a handful of countries (not including the United States) have signed a treaty declaring all extraterrestrial bodies to be "the common heritage of mankind," as Antarctica is treated today. The scientists who are now fighting to keep Antarctica pristine—which generally means excluding every money-making activity except for their research projects—would probably try to preserve Mars for themselves too. Environmentalists who now demand the preservation of malarial swamps and frozen tundras probably would find reason to preserve Mars in its "natural" state.

If colonizing the Red Planet ever becomes a practical possibility, libertarians should be ready to get there before anyone else starts writing the rules. And even if colonization never becomes practical, even if Mars never becomes a free new world, just imagining it is good for the libertarian soul.

In fact, Zubrin's development plans even provoked some opposition at the founding convention of the Mars Society. Environmentalists in the audience rose to object when he declared it our species' Manifest Destiny to terraform the Martian environment. But Zubrin managed to quell the opposition, and get another ovation, by explaining that the Red Planet would become a green haven for terrestrial species whose habitat might one day be endangered.

"We must protect billions of our fellow creatures," he said. "Raccoons and maple trees can't get to Mars on their own. We have to help them there. Humans have eaten a lot of fish, and now we're going to repay the favor by taking fish to Mars. It's our duty to the biosphere."

It was a lovely moment, a developer outgreening environmentalists by nobly espousing the largest real estate project in history, and it illustrated why Mars is a no-lose proposition for libertarians. If colonizing the Red Planet ever becomes a practical possibility, we should be ready to get there before anyone else starts writing the rules. And even if colonization never becomes practical, even if Mars never becomes a free new world, just imagining it is good for the libertarian soul.

John Tierney (jotierney@aol.com) is a columnist for The New York Times.

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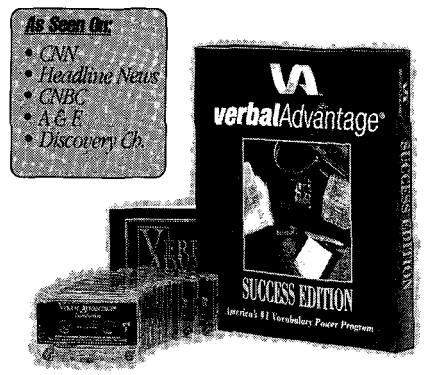

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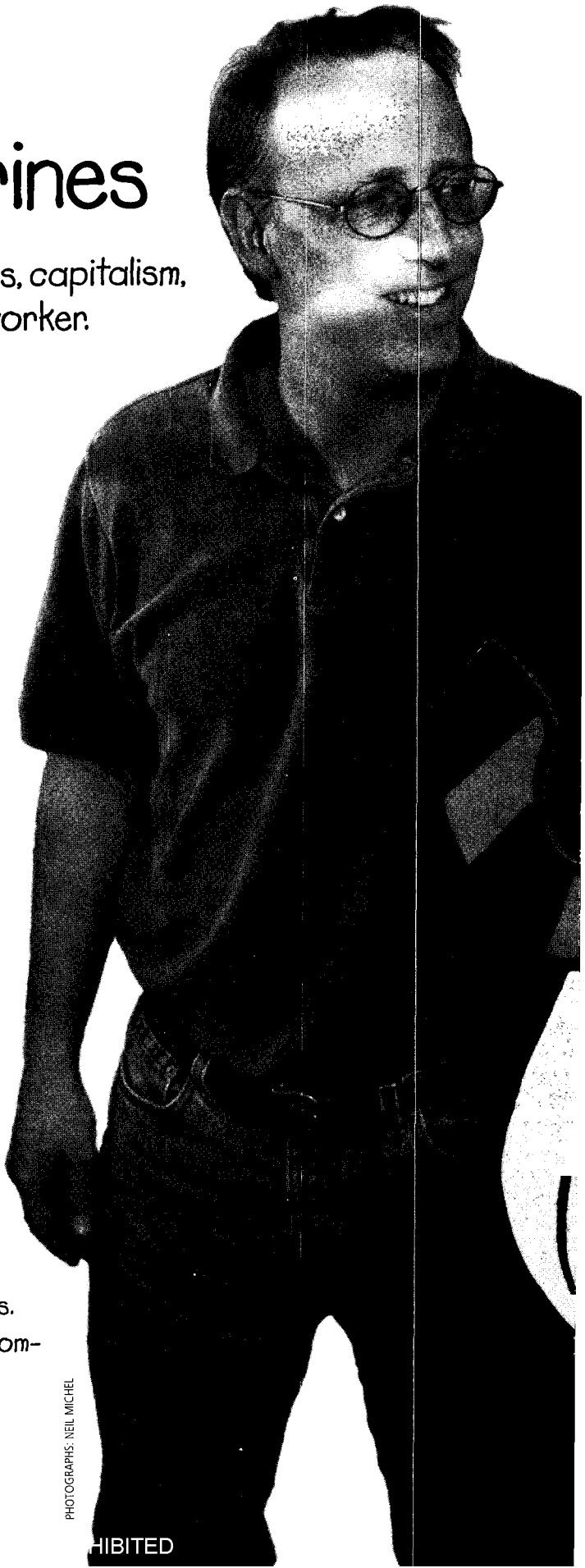
Dilbert's Doctrines

Cartoonist Scott Adams on cubicles, capitalism, and the angst of the knowledge worker.

Interviewed by Virginia Postrel



PHOTOGRAPHS: NEIL MICHEL

Scott Adams is one of America's leading social critics: an astute observer of the follies and pains of corporate life in the age of the knowledge worker, downsizing, PowerPoint presentations, and endless management fads. Unlike most social commentators, however, Adams isn't looking to change government policy or re-engineer capitalism to suit his tastes. He's providing criticism from within—the sort of knowing commentary that can get stupid policies dropped before they're implemented. And, of course, he makes it funny.

Before his *Dilbert* comic strip took off, Adams himself did time as an anonymous cubicle dweller, working for Crocker National Bank and then Pacific Bell. "I worked in a number of jobs that defy description but all involve technology and finances," he reports. An MBA with an undergraduate degree in econom-

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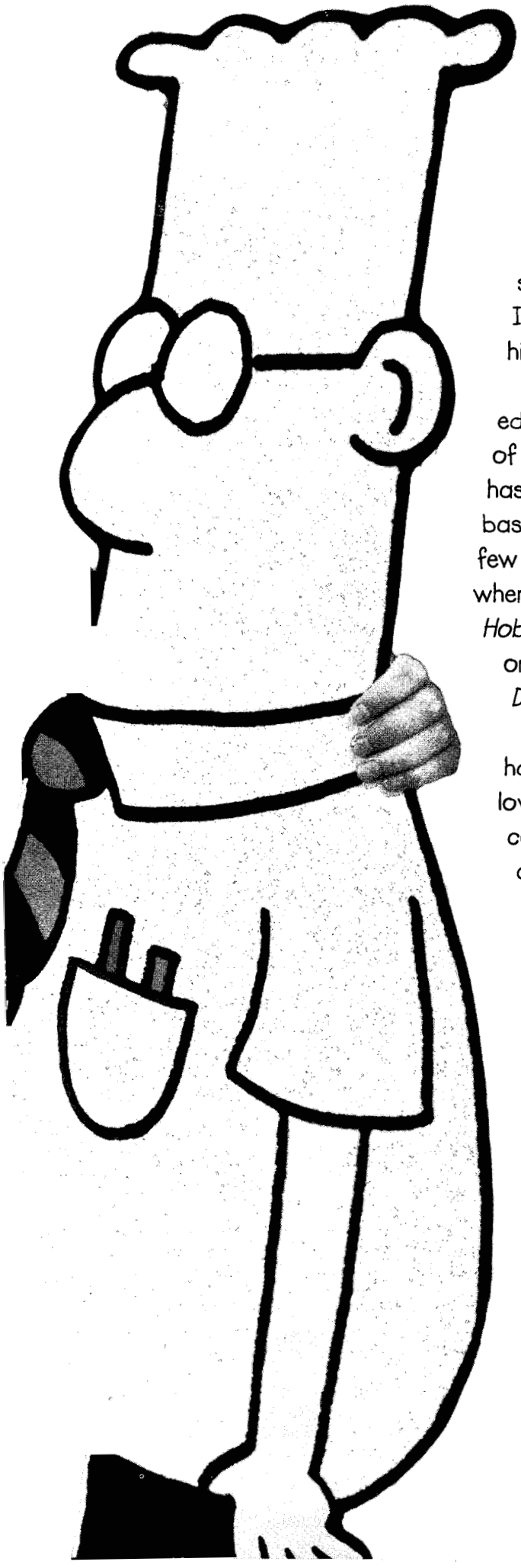


ics, he nonetheless lived the life of a technical specialist—"My business card said 'engineer,' but I'm not an engineer by training"—and Dilbert and his co-workers reflect that background.

Nowadays, he stays in touch with the cutting edge of business stupidity through the hundreds of e-mails fans send him. The Internet, he says, has been critical to *Dilbert*'s success, building a fan base that spread the word beyond the strip's first few newspapers. Those fans were especially helpful when Bill Watterson retired from drawing *Calvin and Hobbes*, and many newspapers polled their readers on what they'd like to see take its place. "We want *Dilbert*," was often the reply.

Now Adams is living the "new economy" dream, having escaped the cubicle grind to do what he loves and make piles of money doing it. His *Dilbert* comic strip runs in some 1,700 newspapers in 51 countries, and its devoted fans support a merchandising empire of mouse pads, coffee mugs, dolls, calendars, and so on. A TV version of *Dilbert* debuts January 25. In addition to the usual comics collections, Adams has written three semi-serious books, *The Dilbert Principle*, *The Dilbert Future*, and *The Joy of Work*, that combine illustrative strips with observations about improving (or surviving) corporate life.

REASON Editor Virginia Postrel interviewed Adams at his home in Danville, California, where he lives with his longtime girlfriend, who still works at PacBell; two cats; enormous amounts of Dilbert paraphernalia; and gadgets galore.

Reason: Why do you think *Dilbert* is so popular?

Scott Adams: It's a whole range of things. Some people are just looking at it and saying, "This is just like my workplace, he's talking about me," and so they're really into it. There are some people who just like jokes—wherever they find jokes, they're happy. And kids under 12 are saying, "Hey, there's a talking dog."

I think people use the strip in different ways. Readers tell me a lot—I get so many e-mails every day. They often say that some policy got changed because while their management was in the midst of creating it, a *Dilbert* cartoon came out mocking that same policy. So I have been credited for killing a lot of bad policies, which I guess I'm happy about. The other thing is that [the strip] kind of realigns the balance of power. Employees don't really have much ability to do anything about a policy they don't like. But through *Dilbert* they can mock it, and nobody can really withstand the mocking factor. *I've created a way employees can* mock policies without it being personal. If you mocked it personally, you would get fired. But people can take my cartoon, point to it, and say, "I'm OK with this. But this cartoonist guy, he thinks you're silly." It's a way to offload the risk.

Reason: Dilbert has emerged as the new workplace Everyman. This is a change from the traditional workplace Everyman, who was often an assembly line worker and whose greatest obstacles were the pace of the machinery and grinding repetition. Dilbert's biggest problem is basically bosses who keep him from getting his work done.

Adams: It's about futility and absurdity. But he's got a different problem, too. If you're on the assembly line, at least you've made something. Whereas Dilbert is like I was in my career: work 17 years and never do anything for anybody. Nothing tangible came out of anything I ever did. There's a lot of people in that boat. They're working on something which, if it were *ever* actually completed, it would be tangible. But nine times out of 10, things get canceled or delayed. You change jobs before it's finished. You never really get the feeling that you've done anything useful. You feel like you're bluffing all the time. It's *the* big difference.

Reason: That's the existential angst of the knowledge worker?

Adams: Yeah. You have no traction with the real world and you lose any correlation between your efforts, your paycheck, and what you are doing in the world. Those three things are thoroughly unconnected.

Reason: Is that why more people are working for themselves?

Adams: It probably [has to do with] searching for meaning and a connection between what their effort is and what their reward is. I think workers want that connection. But it's also just bad bosses and idiot co-workers.

"I've created a way employees can mock policies without it being personal. If you mocked it personally, you would get fired. But people can take my cartoon, point to it, and say, 'I'm OK with this. But this cartoonist guy, he thinks you're silly.' It's a way to offload the risk."

Reason: What do you think about the trend toward self-employment?

Adams: I worry about a brain drain. I always wonder whether one of the reasons that the United States does so well and innovates so well is that the only people here are risk takers. You have to be, just to get here in the first place. But I wonder what happens when corporations are filled with people who don't take risks—even fewer risks than they already do. And it's pretty bad to begin with.

In *The Dilbert Future*, I talked about how the workplace would be more like the NBA, where the superstars get gigantic salaries and there are the people who are happy to have jobs, and a few

middle managers in the middle to keep it together, but everyone else will just go off and work for themselves. The corporation is going to have superstars, irrelevant managers, and people who do real work. And that's about it.

Reason: Some economists have called this scenario the "winner-take-all economy."

Adams: There's a name for it?

Reason: It's supposed to be really bad. From the way you write about it, though, I get the sense that you don't think it would be that awful.

Adams: Not if you're a winner. The rap with capitalism is that in order for some people to do really well, some people are not going to do very well. Capitalism is just another form of discrimination. It discriminates against people who don't want to work hard or who are not capable. Why should they be discriminated against? We have internalized that it's the only kind of discrimination that is OK. You couldn't discriminate against skin color, age, and disability. Why could you discriminate against someone who is stupid? There's no reason. It's just we've all agreed—and by *we* I mean the people who are not *so* stupid. If everybody voted, I'm sure the stupid people would—well, who knows what the stupid people would vote?

Reason: They still might be better off than under any alternative.

Adams: I don't know. Would stupid people—people significantly below average, somewhere under a 100 IQ—be worse off under communism? I think they end up roughly the same. I think average people are doing just fine and would prefer capitalism.

Reason: Your strip certainly highlights the absurdities of corporate life. That's something you've also done in real life. Explain what you did for Pierluigi Zappacosta at Logitech.

Adams: I got a call from Tia O'Brien [an independent reporter on assignment] for the *San Jose Mercury News.* She wanted to do a story that was going to be interesting and different. We brainstormed and came up with the idea that I'd put on a disguise, go to a corporation as a consultant, and see if I could fool people into thinking that I was a high-paid consultant when, in fact, I was just full of crap. Zappacosta thought it would be a fun idea.

So we set up the scam. Tia acted as my assistant, and Pierluigi was the only one who was in on it in a room full of business executives at Logitech. For over one hour I took them through an exercise on how to rebuild their mission statement. I actually convinced them that the one they had was woefully inadequate.

Reason: Was the one they had bad?

Adams: That's part of the humor of it—all mission statements are quite useless. So to tell them the one they had wasn't doing the job should have raised a red flag to begin with. But people in corporations are so used to two things: First, absurdity—so nothing seems *too* unusual. And second, there is not enough payoff to rock the boat. It was much easier for everyone to listen to what I had to say than to jump on me at the first sight of absurdity. Certainly everyone in the room had at least a moment where they said, "Man, I'm wasting my time!" But I made sure I always skated just below the level at which somebody would call my bluff and would think it was worth taking the chance of calling me a fraud. I had them thinking, "What if it just turns out that he's just eccentric but the best consultant in the world?"

Reason: What did they do when they found out?

Adams: For the first 30 seconds, they were just stunned. It took them a while. They had to rebuild in their minds the last hour of their life to make sense of the moment that was right in front of them. Their eyes were open, but there was slot-machine activity in there, as they rewound and fast-forwarded through until they got to where they were, and then they laughed. They thought it was funny. Nobody seemed to take it bad.

Reason: What do you hate about cubicles?

Adams: I think it's the symbolism more than anything—the fact that you're a grown adult and well into your career and you have to sit in a box. There's just something inherently degrading about that. Even if the intent [was not] to degrade when they built the things, it's always the effect. The ones I was in were always brown. They were small, and you couldn't decorate them—there were rules against it. So you couldn't make your cubicle look the way you wanted. You couldn't bring your personality. You couldn't leave any pictures out because that would affect the "acoustic integrity" of the wall. You couldn't put anything above the sight line of the cubicle, so you couldn't have a plant. When I would come to work, I'd be walking through the parking lot and I'd be in a perfectly good mood. Outside the sun was shining, and as I walked down the hall, closer and closer to my cubicle, I could feel my spirit shrinking, and by the time I sat down, I'd be in a terribly bad mood.

Reason: What possible justification could there be for telling employees that they can't pay for their own customization—put some pictures of loved ones on the walls or have a plant?

Adams: I guess the big problem with any large organization, whether it's a company or the government, is that there's *always* a reason for everything in large groups. Like why people can't put things on the wall of their cubicle: There probably was a study somewhere that said that it makes sound travel more because it's hitting the paper on the walls and bouncing off. But real people would never have that kind of rule in their house.

Reason: How does that relate to government?

Adams: Nobody makes more laws than the government, and every one of them has a good argument behind it. But individually, if it were up to you and somebody said, "Look at these 10,000 laws," how many would you keep? You would keep three: Don't kill people, don't steal things, pay your taxes.

Reason: Another thing you write about a lot is diversity training. What have been your experiences with it?

Adams: I think everyone is in favor of the *goal* of diversity training—don't abuse people just for being different. It's just the mechanism they dislike.

There are logical problems, of course, with diversity training: Everyone is different in some way. I happen to be short and balding, which is an incredible disadvantage in business. It's every bit as big a disadvantage as those of people in protected categories. But it's one of those things you can't claim, because nobody would believe it and you'd get no sympathy whatsoever. Being fat and short and ugly and bald can be huge disadvantages, but they are not on the list. And there are other things that are equally legitimate which aren't on the list. So right away you get

a little animosity: "*I* wanna be on the list, too."

But the problem is really the same one with most corporate training: It's conceived and set up by people who are, in many cases, intelligent and understand the issue. Then they hire people to do the training who are not brilliant people and who don't really understand the issues. What I usually hear from people is that they went to a training class and somebody of a persuasion they're not told them that they are evil. That's their training: somebody telling them that they are bad. So they leave and say, "I'm not on the list, and I'm bad."

Reason: I take it they don't leave convinced that they're bad?

Adams: Nobody is convinced that *they* are bad. Right there, you have a problem. So everybody just leaves bitter. I just think there's a better way to do it. I certainly wouldn't claim to be an expert, but the concept of having everybody sit in a room so someone can tell you that you are bad because people *like* you (not even you personally, but people who look like you) have abused other people who look like them and that you better fix it—it's kind of an inherently offensive concept.

Reason: Do you get into trouble for saying that?

Adams: I don't say that, not in the comics. I only make fun of the process.

Reason: Do you think the law should try to make workplaces fair, as opposed to people trying to do it voluntarily?

Adams: It'll seem like I'm two-faced or hypocritical here, but here are my two points of view: For the individual, you should run away from your company and work for yourself. My advice for an individual is just to escape it. But given that there will always be companies and clusters of people that have to work together, you probably always need some rules to keep people from discriminating and doing things that a polite society should not do. So there's a role for it.

Reason: Do you think more people are able to have work that they enjoy now than in the past? Or is it always the lucky few?

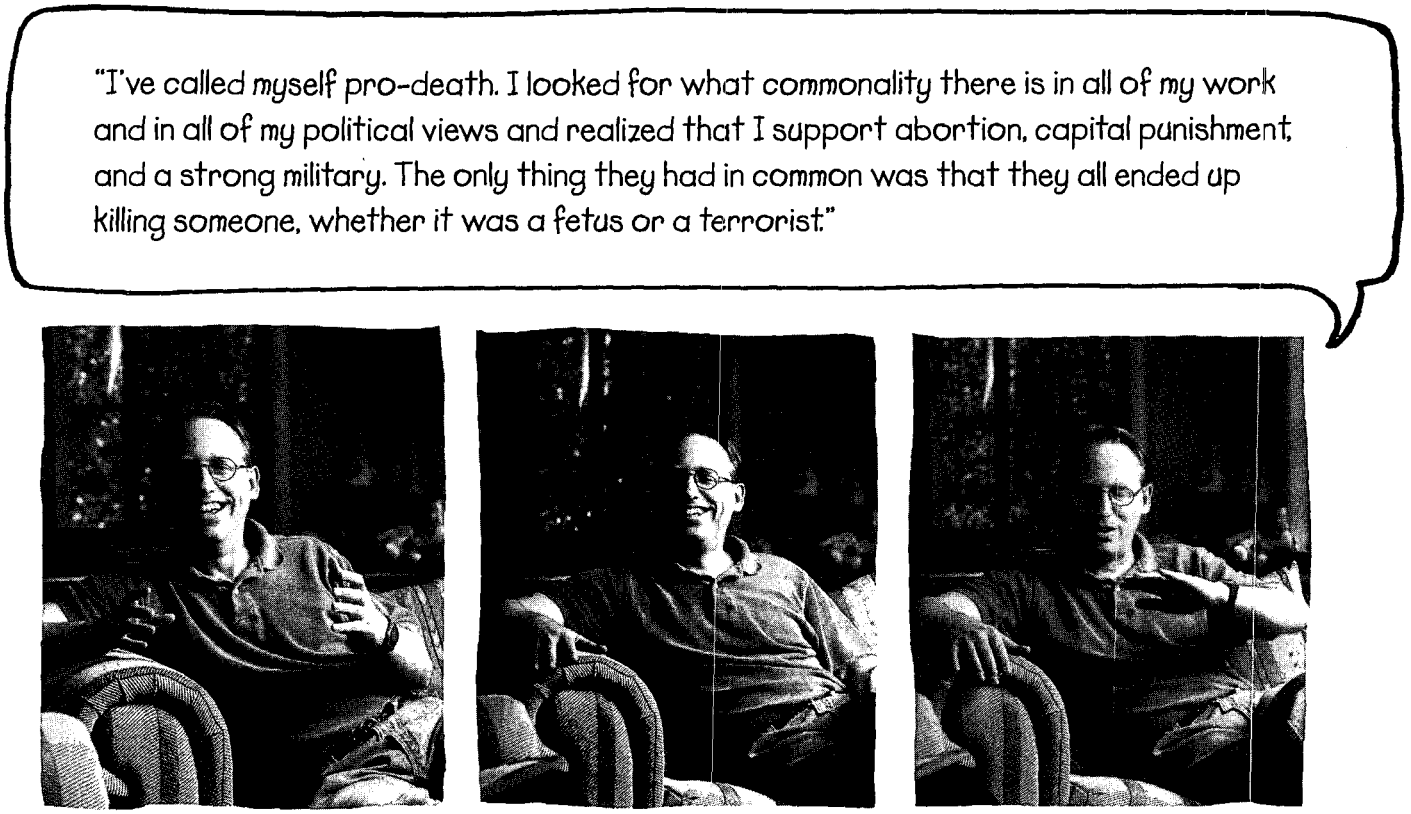
Adams: Compared to a feudal society, more. Moving large amounts of bovine fecal matter from one place to another, if that was your job, you worried about the plague. I would say we've moved roughly sideways in the last 30 years.

Reason: Were things better when people thought, "If I'm loyal to the company, the company will be loyal to me. I'll put in my 40 years and they'll put in their 40"?

Adams: Yeah, they probably were better. But it doesn't matter, because it's gone. The reality is that as soon as downsizing came, the illusion of that balance—of what's good for you is good for me—was gone. It became obvious it was good for the company to get rid of an employee. I don't think that old sense will ever come back. And that is probably going to cause a seesawing of power into infinity. Right now the economy is booming and unemployment rates are low, so the employees have all the power because it's hard to get new ones.

As soon as that changes, if the economy crumbles and unemployment starts skyrocketing, all the employers are going to use their power again, because they know there's no point telling the employees that they'll be trusted and they'll be there forever, because they are not going to believe it anyway. The external events will drive that seesaw back down.

Reason: Downsizing isn't always done in the most intelligent way. But the theory behind it is that there are layers of management that were not just not adding value, but are possibly even subtracting value from a company. If you read *Dilbert*, you get


"I've called myself pro-death. I looked for what commonality there is in all of my work and in all of my political views and realized that I support abortion, capital punishment, and a strong military. The only thing they had in common was that they all ended up killing someone, whether it was a fetus or a terrorist."

the sense that there's something to that, don't you?

Adams: One thing you can say about downsizing is that it did make big companies more efficient. It clearly had negative effects—people's lives were dislocated, people who kept their jobs had to do more work. But there's no doubt about it: The fewer managers there are, the better things work.

Reason: In your new book *The Joy of Work*, you talk about Norman Solomon. Tell us about Solomon—what he said about *Dilbert*, downsizing, and why he was wrong.

Adams: Solomon wrote a book called *The Trouble with Dilbert*. Most of it sprung from one comment that I made and then later confirmed, which I didn't realize had been taken out of context. I was asked, "Are there any benefits to downsizing?" And I said that, in fact, there were: It made some companies more efficient, and once you get rid of all the managers, the companies' stock prices go up. Those are good things.

I said that in the context that I was one of the people who most made fun of the methods of downsizing and the turmoil that it caused. But Solomon took that as my core philosophy that downsizing is good, presumably with all of its ramifications.

Reason: The more pain the better?

Adams: That was implied, but he didn't come right out and say that I was in favor of pain. But he deduced that I was a tool of capitalists and that I was not in favor of the working man, as he felt I should be. Or rather I was opposed to the working man in some way. These are very conceptual arguments that are not entirely related to what I do in any given day, but he felt that those conclusions were valid, and they were a big surprise to me because most of them obviously were taken from that one comment.

Reason: People from the left don't seem to know what to make of *Dilbert*. They either want to make it them ("Dilbert is anti-business") or just the opposite ("Dilbert is a capitalist tool"). But you seem to be criticizing capitalism from within.

Adams: I would say *yes* to that. Capitalism being the thing which I know and love, I feel it's not above criticism.

Reason: How do you define yourself politically?

Adams: I find that I do not align with any well-established political viewpoint that has a name associated with it. So I've called myself pro-death. I looked for what commonality there is in all of my work and in all of my political views and realized that I support abortion, capital punishment, and a strong military. When I put together the things I'm in favor of, the only thing they had in common was that they all ended up killing someone, whether it was a fetus or a terrorist.

Reason: What's your idea of how government should work?

Adams: I've always thought that, if I led the world—and God help us all if that ever happened—that the first thing I would do is make a list of what I considered the top priorities. And I'd have a criterion for why they were the worst problems. Probably on the top of my list would be something like tobacco and cigarette smoking, because it kills people.

Reason: Smoking is at the top of your list of the world's priorities?

Adams: Well, of the United States'. Maybe a strong military is at the top of the list—but it seems to be under control and nobody is attacking us. Anyway, I would have my top 10 problems and then I would bring together the experts. Let's say the problem was what to do about teen smoking. I'd get 100 of them in a room. Sixty of them say we should do this one thing, 40 of them say to do this other thing. By and large, not knowing anything more than these experts know, I'd go with the 60. I'd say, here's the experts, here are their credentials, so this is my policy. You'd never see that because it would never be politically viable to do that. But I've always imagined that it was the most sensible form of government.

Reason: A technocratic ideal. Is there no room for people wanting to smoke for the enjoyment they get out of it? Or do you decide from above that it's bad for them, therefore they shouldn't be allowed to do it?

Adams: I think that everything in our society is this tradeoff between how much does the government meddle vs. how much does it need to do for our own good. We make people wear seatbelts. We pass safety laws. We clean up the water. We clean up the air. Cars have a certain emission standard. For virtually everything you touch during the day, the government in some way has decided what the tradeoff is. It's a conscious tradeoff of individual freedom in exchange for preserving safety of life.

Reason: Some people have described Dilbert as anti-technology. One cultural critic has even used the strip to suggest that we think of technology as a "killing thing." Is Dilbert anti-technology?

Adams: No, he's exuberantly pro-technology. He loves technology. *I* love technology. If it hums or beeps or flashes, I want one. But it's just like any other tool. You can use a hammer to hit somebody in the head. If people are reading that into [the strip], that's got to be something they are bringing into it. It's not anything I'm putting in.

Reason: The creator of Zippy the Pinhead, Bill Griffith, has called Dilbert more marketing than cartoon. What do you think of that?

Adams: He did that just before his book tour, I think.

You always have to sort out who is mad at you because you are marketing vs. who is mad at you because you are marketing better than they are marketing. I choose to look at that part of my life [marketing] as one I want to concentrate on because I think I can do it well. If I can get good results and somebody doesn't like that, then I don't know how to disagree with that. It's just pure opinion based on nothing. I'm not killing anybody. I'm creating things which people understand. If they want to transfer money in return for those objects, who dies? Who loses for that? It's a free world. If I were forcing people to buy it, then I'd understand. Or if it hurt people. But they're just jokes and dolls. Nobody is surprised when they buy a *Dilbert* item and put out their $10. They get something, and they know exactly what it is.

Reason: Dilbert is used in Office Depot ads. Recently the National Parent-Teacher Association also agreed to let its name and logo be used in Office Depot ads. The Associated Press had a story in which an anonymous Texas PTA official said she didn't like the ad with Dilbert because the character said, "Don't be a dork when you go back to school." The official said the comment runs counter to the association's goal of encouraging children to feel comfortable about their appearance. What do

you think about the controversy?

Adams: Well, it's the first time I've heard of it. Three hundred million people in the United States, 300 million opinions. All humor offends somebody, and you can't really understand that fully until you've done as many cartoons as I have. I did a joke about barbecuing unicorns, and there is a society that loves unicorns and they were put off by the whole concept. It's the nature of humor that you are taking something which is not belittled and you're belittling it. Belittling the way people choose to dress seems about the most harmless target you can possibly go after. But somebody is going to think that how kids dress is very important to their self-esteem and their life and make a case for it. It's not wrong. They are not incorrect. It's just a question of whether humor is banned from the planet, or do you accept that as the natural result of allowing free speech?

Reason: One of your books is called *The Dilbert Future.* You've said that you tend to live in the next moment. What's so interesting about the future?

Adams: I've decided that the only reason I get up in the morning is because I'm curious. It seems to be my most fundamental driving force, because I've met all of what [psychologist Abraham] Maslow would call lower-hierarchy needs. I actually wonder, If I write another book, will anyone read it? I'm just curious at this point. I don't need the money really. Can I write another book? Would anybody care? Would anybody buy it? If I did that, what would that lead to? Like what would be the next thing that would make itself available if I was successful in the last book? So I'm just curious. I already know what happened yesterday, for the most part. I don't know what will happen tomorrow.

Reason: Many people are afraid of developing technologies, such as biotechnology. What do you think?

Adams: This is where the engineer part of my personality dominates. There is a whole ethical debate about twiddling with people's genes. Here's something that you can debate all you want. But there's no technology that we've developed that could actually do something important that we haven't used. Once you have the choice that your kid can be whatever height and have perfect health, which parent is going to say, "Well, I think I'll take my chances with the health of my child. I think I'll roll the dice on that one"? Once the capability is there, it's going to be widespread.

Reason: So, do you believe in progress?

Adams: Yeah, I'm a total optimist. I'm the biggest optimist in the world. I think everything will get better except those things which are somehow permanently broken. The people who are dead today will still be dead tomorrow, but for those of us still alive, thinking and healthy, I'm a total optimist. I always wonder if my optimism is a genetic thing. At any given moment, I'm never exuberant, but neither am I really depressed. But my optimism is off the chart. I always think everything is going to be much better tomorrow than it was today.

Reason: Is it just an emotional sense, or do you have an argument for why you think that?

Adams: No, there is absolutely no rational reason, because it would be so easy to come up with an argument that counters it. On the plus side of that, things do seem better now in general than they ever have been in the past. There are a few bumps in the trend line, like in the early '90s. But if you're in it for the long term, things get better.

"I'm a total optimist. I'm the biggest optimist in the world. I think everything will get better except those things which are somehow permanently broken. The people who are dead today will still be dead tomorrow, but for those of us still alive, thinking and healthy, I'm a total optimist."

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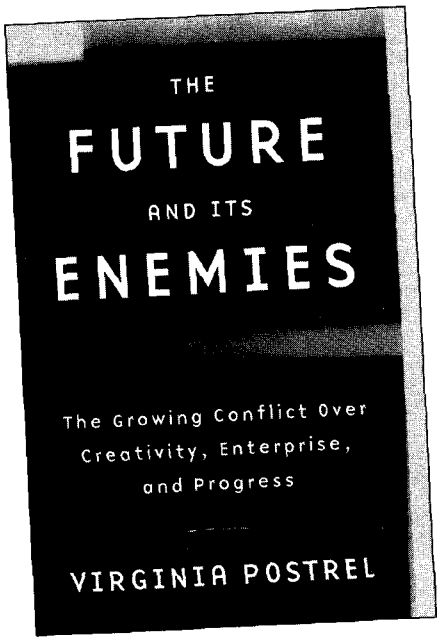

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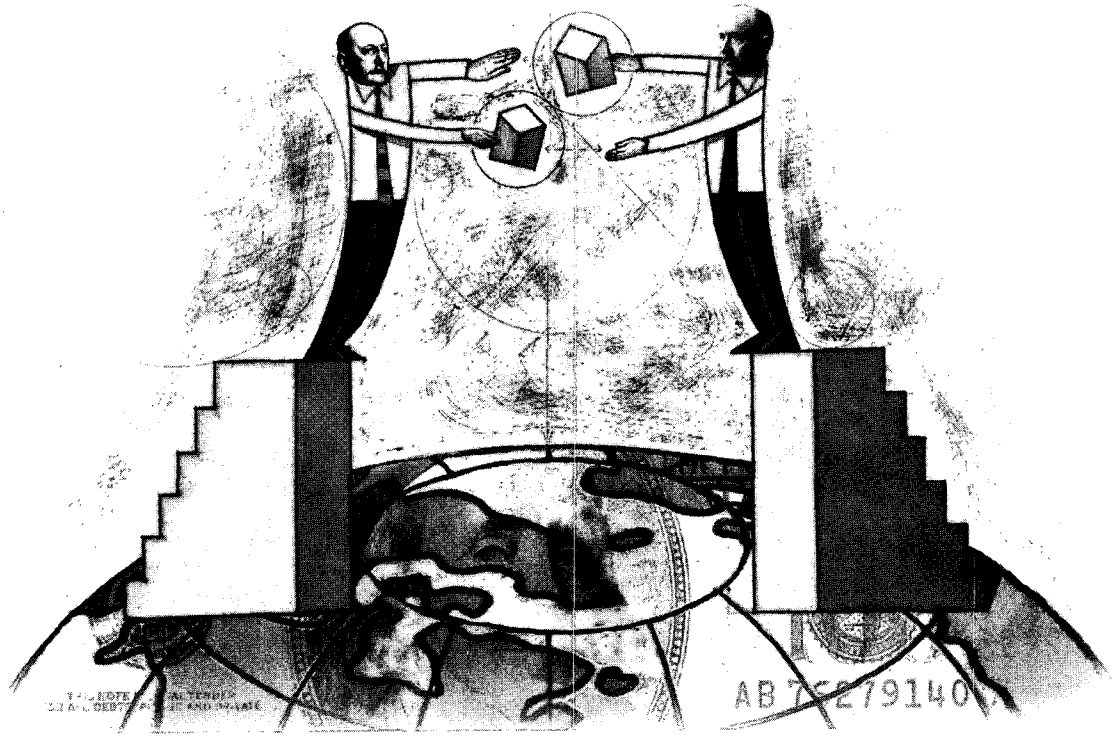
U.S. trade policy is dead in the water. Here's how to get it moving again.

BY BRINK LINDSEY



FAST-TRACK IMPASSE

"Fast track" trade negotiating authority has become anything but. Nearly five years have passed since the last grant of authority expired—years of wrangling, posturing, and ultimately stalemate.

Without fast track, U.S. trade policy is dead in the water. Current policy consists of negotiating agreements in which we swap reductions in trade barriers with other countries. Our trading partners, though, won't negotiate seriously as long as they fear that any deals could wind up rewritten on Capitol Hill. Fast track

bridges that confidence gap by requiring Congress to vote up or down on trade agreements without amendments and within a specified time period.

But fast track has failed twice in Congress. In November 1997, the bill was yanked at the last minute because it faced certain defeat in the House; last September, supporters forced a House vote and lost ugly, 243 to 180. In the first go-round, President Clinton actively supported the bill but could convince only some 20 percent of Democrats to go along. Republican leaders cooked up the second fiasco to embarrass Democrats prior to last year's midterm elections, but a third of their own caucus broke ranks and voted no.

Such failures are especially depressing given their timing. During these years of paralysis, conditions could hardly have been more favorable for liberalizing initiatives: The economy has been booming, with unemployment and inflation their combined lowest in decades; since the "competitiveness" scares of the 1980s, major U.S. industries have staged dramatic comebacks. If free traders couldn't prevail under these circumstances, when could they?

Not, in all likelihood, for the foreseeable future. As economic crises grip Asia, Russia, and Latin America, and as prospects for continued growth at home appear uncertain, a window of opportunity may have closed. Free traders must face the facts: They blew it.

Even worse than the current predicament is the likeliest "solution" to it. Since fast track authority expired at the conclusion of the Uruguay Round of trade talks in 1994, reauthorization has been snagged on the question of whether labor and environmental issues belong on the trade agenda. Most Democrats have refused to support new trade negotiations unless these issues are on the table; they believe that international rules on labor rights and environmental protection are necessary to prevent economic globalization from prompting a woeful "race to the bottom." Most Republicans, meanwhile, steadfastly oppose such international rules, and many in the GOP would regard any trade agreement that includes them as worse than no agreement at all.

The two failed fast track bills were relatively "clean"—that is, they excluded labor and environmental agreements from the scope of fast track procedures. Thus, the bills were designed to appeal to a center-right political coalition. Since that coalition has been unable to muster a majority, momentum is building for a move to the center-left. That means repackaging fast track to put labor and environmental issues squarely on the trade negotiating agenda.

It's unclear whether decorating fast track with "blue" and "green" trim would gain more Democratic supporters than it lost Republicans. What is clear, though, is that doing so would mark a radical departure from free trade principles. For the first time, the stated goal of trade negotiations would be to increase rather than decrease government intervention in trade and investment flows.

What a choice for free traders: futility or apostasy. On the bright side, the good thing about reaching a dead end is that you no longer have to wonder whether you're on the wrong road. For free traders, now is a time of clarity: The only viable option is to strike out in a new direction.

ILLUSTRATIONS: PETER BENNETT

The way out of the impasse starts with a proposition that, once stated plainly, seems embarrassingly obvious: The prospects for opening markets here and abroad would brighten considerably if more Americans believed that open markets here are a good idea. Unfortunately, free traders have not been making the case for free trade at home. On the contrary, they have steadfastly avoided any head-on confrontations with protectionist forces. Instead, they have sought to hold and gain ground by alternately diverting and appeasing those forces. This strategy is no longer working, and must be abandoned in favor of a more principled approach.

Before free traders can figure out their next move, they need to understand how they wound up in the present mess. In a time of unrivaled prosperity, what has made trade liberalization so bitterly controversial?

The answer lies in an emerging nervous disorder known as "globalphobia." Many Americans are deeply skeptical of the much-hyped global economy and its effects on the U.S. economy. According to a *Business Week*/Harris poll conducted in September 1997, 56 percent of Americans believe that expanded trade decreases the number of U.S. jobs, while only 17 percent believe that expanded trade increases wages.

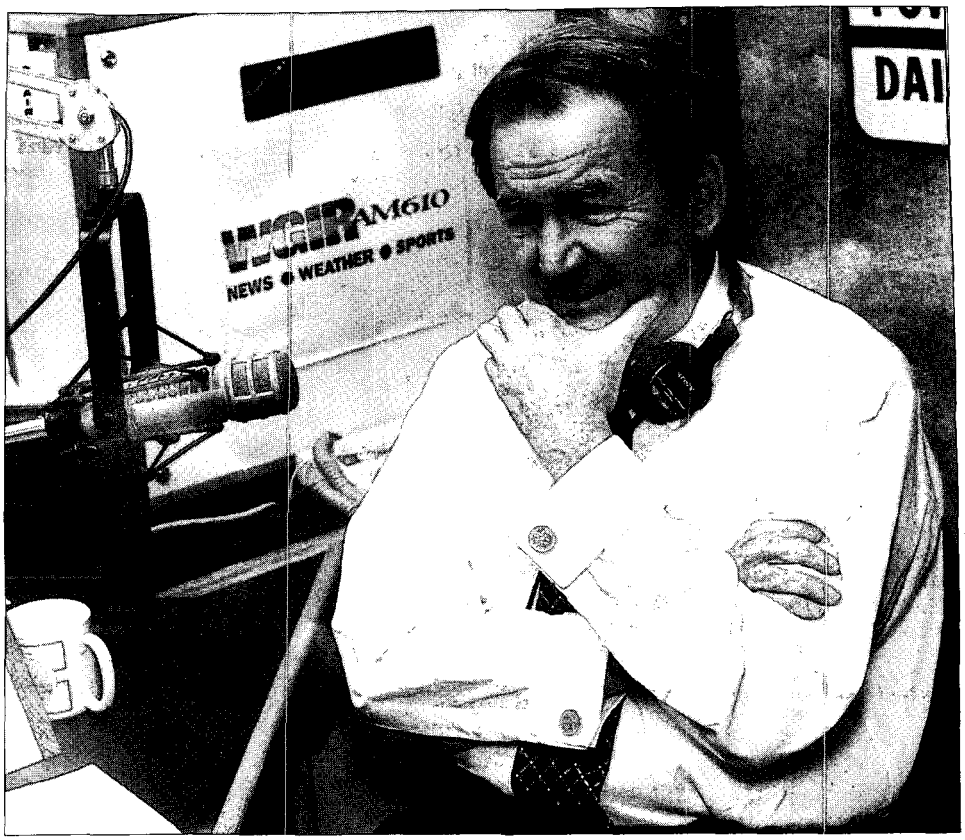
The main focus of public anxiety is the supposed threat to American prosperity posed by poor but industrializing countries. Over the past couple of decades, a succession of events—the opening of China, the collapse of the Soviet Union, the abandonment by many developing countries of autarkic import-substitution polices—has added hundreds of millions of new participants to the global division of labor. While new technologies that increase the world's productive capacity—personal computers, for instance—are hailed as economic breakthroughs, an increase in the form of human capital strikes many people as a menace. The fear is that Americans cannot compete with the low wages of "emerging market" countries, and that a kind of living-standards arbitrage will drag us inexorably down to their level.

Globalphobia afflicts both the left and right. On the right, Pat Buchanan leads the charge. In *The Great Betrayal*, he decries the increasing economic ties between the First and Third Worlds: "The global hiring hall is the greatest buyer's market in history for human labor. It puts American wage earners into direct competition for production jobs with hundreds of millions of workers all over the world." And on the left, William Greider warns in *One World: Ready or Not* of a "global overabundance of cheaper labor." Greider shares with Buchanan a zero-sum vision of international commerce: "The history of industrial development has taught societies everywhere to think of the economic order as a ladder....The new dynamic of globalization plants a different metaphor in people's minds—a seesaw—in which some people must fall in order that others may rise."

An analysis of 1997 congressional voting patterns by Robert Baldwin and Christopher Magee for the Institute for International Economics shows a clear connection between rising globalphobia and fast track's failure. According to their study, the

higher the employment in a member's district in industries for which imports are greater than exports, the more likely was that member to state his opposition to fast track. The likelihood of an anti–fast track stance was also highly correlated with the percentage of workers in a member's district with less than a high school education. By contrast, neither of these relationships was statistically significant in explaining votes for or against NAFTA in 1993. Baldwin and Magee conclude that the deterioration in support for trade liberalization over those four years may be attributed to increased concern about the employment effects of expanded trade, especially with respect to low-skill workers.

But while globalphobes of the left and right have united to block fast track and trade liberalization, their unity does not extend beyond obstruction. When it comes to positive agendas, the left and right wings split along nationalist and internationalist lines. So-called economic nationalists like Buchanan want to stop the world and get off—isolate the U.S. market behind protectionist barriers and let everybody else fend for themselves. Indeed, their hostility to trade liberalization is as much political as economic; they see the free trade cause as a cover for undermining U.S. sovereignty and expanding world government. Conservative activist Phyllis Schlafly uses typical rhetoric when she refers to the World Trade Organization as "a sort of United Nations of trade." "It is dishonest to call something 'free trade,'" she writes, "when it is managed by a huge international bureaucracy."



Smiling Pat: So-called economic nationalists like Patrick Buchanan want to stop the world and get off—isolate the U.S. market behind protectionist barriers. Indeed, their hostility to trade liberalization is as much political as economic; they see the free trade cause as a cover for undermining U.S. sovereignty and expanding world government.

AP / WIDE WORLD PHOTO

Economic nationalists are content simply to trash the world trading system, but their colleagues on the left have bigger plans. Their goal is to remake that system in their own image, creating a larger structure of global governance that imposes social-democratic labor and environmental policies around the world. By ensnaring emerging-market countries in a web of Western-style regulation, and depriving them of their "unfair" advantages of low wages and environmental squalor, they would stop the imagined race to the bottom. Hence most Democrats' refusal to support fast track without a new "blue and green" paint job.

The internationalist strategy was on display in a recent speech by Rep. Richard Gephardt (D-Mo.) before the Council on Foreign Relations. Describing himself as a "progressive internationalist," he cloaked the case for global labor rules in the rhetoric of free trade: "Free trade also requires free markets. And a component of free markets is free labor markets. That's why I have fought so hard, and will never give up the fight, to have workers' rights be an integral component of our trade policy."

Ironically, globalphobia's internal divisions actually strengthen its ability to challenge trade liberalization as traditionally practiced. The economic nationalists can cite the left's labor and environmental agenda as proof that free trade is just a "new world order" plot; lefties can advance the cause of blurring free trade and world government by casting it in opposition to Buchananite "isolationism." Each side thus draws strength and legitimacy from the other.

In reality, of course, globalphobia rests on economic illiteracy. We don't agonize that the country is racing to the bottom because secretaries are replaced by voice mail, or because bank employees are replaced by ATMs. What, then, is so special about the fact that some labor-intensive manufacturing operations are being replaced by Third World factories? All of these trends are part of a larger process: the process of raising productivity, of squeezing more value from less effort. Far from provoking a race to the bottom, this process is the essential precondition for continued increases in our overall standard of living.

Openness to foreign competition pushes productivity, and

living standards, upward in two different ways. First, it gives us the opportunity to buy products from abroad that are better or cheaper than those we can make for ourselves. The result is that we are richer as a society. And over time, the work force and resources that would have been devoted to making what we now import can be shifted to sectors in which we are more productive. Second, by causing domestic firms to compete harder and raise their productivity, the spur of foreign competition makes us richer even when we don't end up buying imports. To take an obvious example, Americans drive much better cars today than they did a couple of decades ago, and not just because many drive imports. American cars have improved dramatically as U.S. automakers responded to the challenge of foreign competition.

The proposition that open markets make a country richer is one of the most thoroughly examined and repeatedly vindicated in all of economics. Adam Smith got to the heart of the matter over two centuries ago when he observed that "the division of labor is limited by the extent of the market." By expanding the scope for voluntary exchange beyond national boundaries, international trade fosters a broader division of labor and the resulting gains from increased specialization. The "global hiring hall," as Buchanan puts it, gives us the chance to profit from the ingenuity, creativity, and old-fashioned hard work of billions of participants in a global division of labor.

Clearly, though, many Americans just don't get it. And one reason why they don't get it is that free traders rarely talk about such things. To a striking extent, the case they make for free trade bears no relation to the one made by Adam Smith and his successors in the economics profession.

Instead, advocates of trade liberalization hammer away repeatedly at two main themes: increasing exports and showing international leadership. For example, the Web site for America Leads on Trade, a coalition of pro–fast track businesses, defended fast track and trade expansion by arguing that it is critical "for maintaining U.S. leadership in the global economy," because such agreements "tear down barriers to U.S. trade and investment. These agreements will boost the U.S. economy and create high wage jobs by expanding export opportunities for our companies and workers."

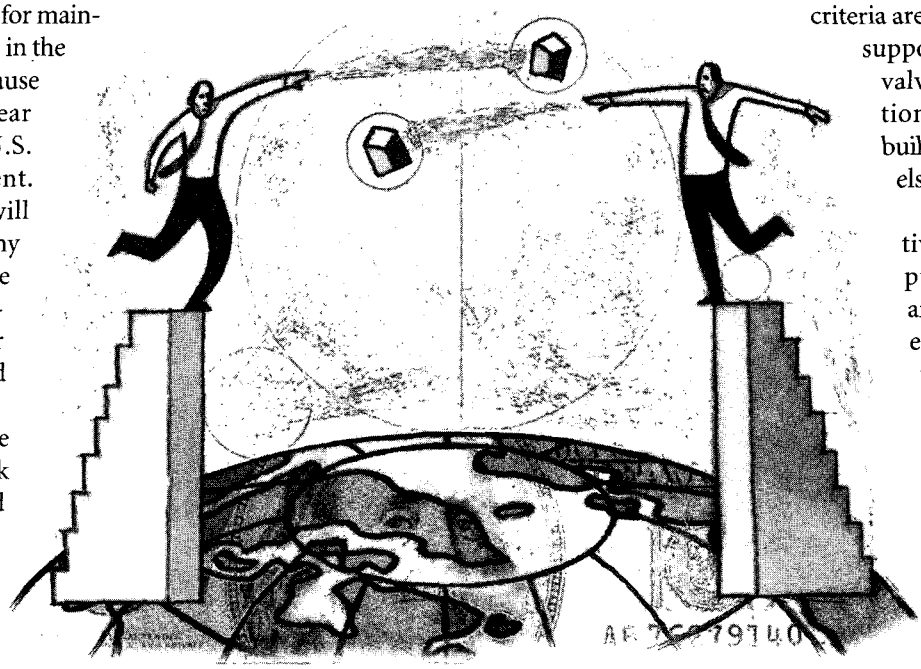
According to the Web site, "Fast track will allow the United States to keep its competitive edge against foreign competitors. If the United States does not have fast track, we risk being left behind."

In such arguments, and in speeches, press releases, and studies from business groups, politicians, and think tanks, from Republicans as well as Democrats, the supporters of trade liberalization make their case for the benefits of free trade *abroad.* Reducing trade barriers in *other countries* will increase American exports, and export-related jobs, and show U.S. international leadership. As to the benefits of free trade *here,* and as to reducing trade barriers in *this country,* free traders of all stripes remain conspicuously silent.

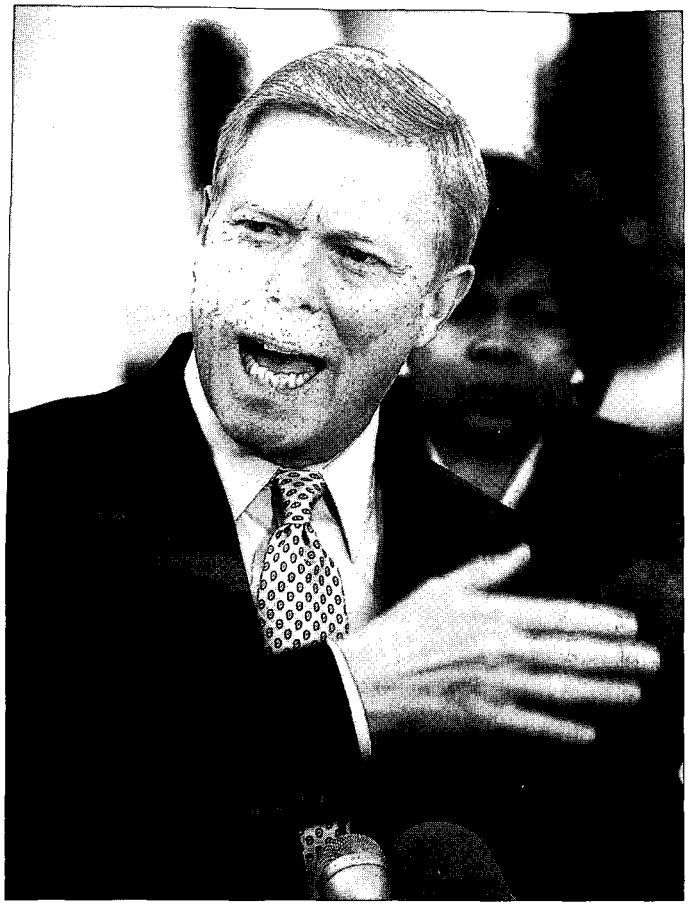
Why? Why let the globalphobes carry the day by default? Basically, free traders have been fighting the last war. Their political strategy dates back to a time when grassroots interest in trade issues was virtually nil, and the economic stakes of trade policy were of concern only to organized business interests. Furthermore, the current strategy is a product of the Cold War, when all international economic issues were viewed through the prism of superpower rivalries.

Under those conditions, free traders hatched their strategy of *diversion* and *appeasement.* By pursuing trade liberalization exclusively through international negotiations, they diverted attention away from the U.S. market and onto the benefits of opening markets abroad, and neutralized protectionist lobbying pressure from domestic import-competing industries. In this way they recruited exporting industries to lobby vigorously for trade expansion. At the same time, they diverted attention away from economics and onto diplomacy by stressing the geopolitical gains from trade agreements—notably, cementing the Western alliance and keeping Third World countries from defecting to the Soviet camp.

And when diversion didn't work, free traders settled for appeasement, making measured concessions to protectionist demands in order to forestall a larger backlash. The major concession was a system of "trade remedy" laws—including the antidumping law, the countervailing duty law, and the Section 201 "escape clause"—which allow special duties to be imposed on imports when legally established criteria are met. These laws were supposed to act as a safety valve that keeps protectionist pressures from building to dangerous levels.



However unattractive to the free trade purist, the diversion-and-appeasement strategy achieved results for many years. Tariff levels plunged during the postwar era as the United States, long a protectionist nation, maintained a commitment—honored at times in the



Diversionary Tactic: "A component of free markets is free labor markets," says Rep. Richard Gephardt (D-Mo.). "I...will never give up the fight to have workers' rights be an integral component of our trade policy."

breach—to a policy of gradual liberalization here and abroad.

But times have changed. The Cold War is over, and free trade's foreign policy trump card is gone. In fact, free trade's association with international negotiations and institutions is now costing it supporters among increasingly nationalist (or anti-internationalist) conservatives. Meanwhile, trade policy is no longer an insider's game, as the issues surrounding globalization have become high-profile, hot-button concerns. Globalphobia as an energized, grassroots phenomenon really took off during the rancorous NAFTA debate, and it has retained if not increased its potency.

As a result, the conventional diversion-and-appeasement strategy is no longer working. When large numbers of ordinary Americans are worried that their economic future is being threatened by imports from cheap-labor countries, happy talk about additional exports for *Fortune* 500 companies isn't an appropriate response. The failure to address genuine, if misplaced, public concerns allows those concerns to fester and spread. Worse, the diversionary focus on exports conveys the impression that free traders value corporate fat cats over regular folks, magnifying globalphobia's populist appeal.

Among supporters of trade liberalization habituated to old tricks, the reaction to diversion's failure is to redouble appeasement. And so today many stalwarts of the pro-trade camp—from such establishment bastions as the Brookings Institution, the Council on Foreign Relations, and the Institute for International Economics—are urging some kind of compromise on labor and environmental issues in order to woo moderate lefties back into the fold. Such a move is repugnant to believers in free markets: Creating new international regulatory bureaucracies isn't what we signed up for. At some point the process of negotiating trade agreements becomes sufficiently adulterated that it's just not worth doing.

In any event, the case for further appeasement is suspect on purely political grounds. While it may be possible to fudge differences sufficiently to get fast track passed, when it comes to actual trade agreements, it's hard to see how any compromise will work. Here at home, if any conservative support is to be maintained, the concessions on international standards will have to be very narrow and modest. Likewise, at the international level, developing countries will refuse to sign any agreements that condition their continued access to rich-country markets on so-called "upward harmonization" of labor and environmental policies.

So no matter how much the compromisers on the pro-trade side may want to deal, they will have very little to offer. And it's highly unlikely that the labor unions, environmental groups, and Naderites will buy what they're selling. The left is too smart to be placated by blue and green window dressing—especially after the experience of the NAFTA labor and environmental side agreements, which most activists regard as worthless. They will demand tough standards and real enforcement, which they're not going to get. As a result, appeasement won't appease.

What, then, will the compromisers accomplish? They will concede that globalphobic fears of a race to the bottom are justified, and that trade policy ought to do something about it. But then the response that they offer will be manifestly insufficient. And so the leftist contention that free traders care more about multinational corporations than about workers and Mother Nature will gain plausibility. Meanwhile, right-wing globalphobes will regard the mission creep of trade negotiations into labor and environmental policy as proof that free trade is a smokescreen for world government. In short, the odds are that appeasement will end up backfiring: Rather than finessing the opponents of open markets, it will only strengthen and embolden them.

Well, what's the alternative? How do free traders get out of their current jam? It's simple, really: Attack the problem at its root. The free trade cause has fallen on hard times because of growing public fears about the United States' place in the world economy. Rather than ignoring those fears, or giving in to them, free traders should make the case that the fears are groundless. Free traders need to take the misconceptions of globalphobia head-on, seize the intellectual initiative, and champion open markets forthrightly and unapologetically.

To begin with, free traders should commit themselves to a

AP / WIDE WOLRD PHOTO

major effort of educating the public. They need to demonstrate the benefits of imports as well as exports, of foreign investment here and of U.S. investment abroad. In particular, they need to portray trade as part of the larger process of ongoing technological and organizational innovation that lies at the heart of wealth creation and rising living standards. In that regard, they need to dispel the notion that job losses due to trade are somehow more onerous than those that attend any other technological or organizational breakthroughs.

Abandoning the old strategy of diversion and appeasement, though, entails more than a shift in rhetoric. It requires programmatic change as well. First and foremost, free traders should identify a handful of the most egregious U.S. trade barriers and launch a campaign for eliminating them unilaterally—that is, regardless of whether other countries make similar reforms. There are plenty of targets to choose from: the anti-competitive anti-dumping law, which punishes perfectly normal business practices in the name of "fair trade"; high tariffs and quotas on textiles and clothing; import restrictions linked to price support programs for farm products; the Jones Act ban on foreign shipping between U.S. ports; similar restrictions on the so-called "cabotage rights" that would allow foreign air carriers to fly domestic routes; limits on foreign investment in broadcasting and air transport; and the list goes on.

Skeptics will respond that unilateral liberalization is a sure political loser. If Americans are scared of opening our markets when the deal is sweetened by market opening abroad, why on earth would anyone expect them to take the medicine straight?

But the purpose of campaigning for unilateral free trade isn't to win legislative victories—at least not in the short term. The point is to change the terms of the debate. On that score, the benefits of a unilateral approach are immediate. First of all, taking this tack forces free traders to go on the intellectual offensive. It's impossible to push for the unilateral elimination of trade barriers without making a frontal assault on the misconceptions of globalphobia. Free traders would have to explain why imports make us richer, not poorer; why trade deficits are meaningless; why the elimination of particular jobs is consistent with, and indeed necessary for, long-term economic health. Americans would finally begin to hear the other side of the story.

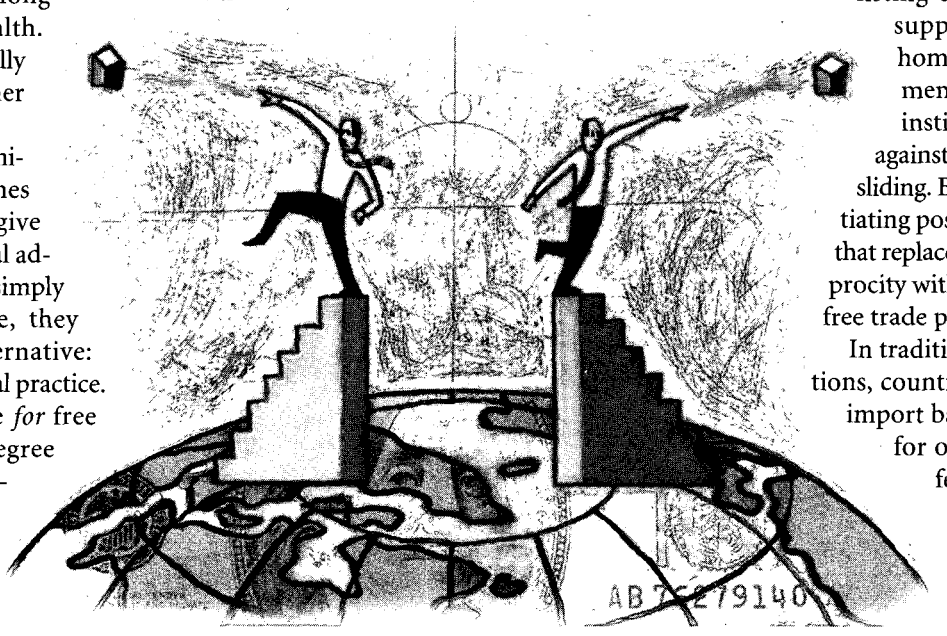
Furthermore, the unilateral approach frames issues in terms that give free traders the natural advantage. Rather than simply defending free trade, they would attack its alternative: protectionism in actual practice. Admittedly, the case *for* free trade is to some degree hypothetical and counterintuitive. On the other hand, the case *against* protectionism is much clearer: It raises prices, restricts choices, and benefits a favored few at the expense of everyone else. Protectionism is unfair, plain and simple. An attack on U.S. trade barriers would allow free traders to put their opponents on the defensive for a change. The beneficiaries of protection would be forced to explain why they deserve their special privileges, and why the welfare of other American businesses and their workers, not to mention consumers, should be sacrificed on their account.

Attacking particular U.S. trade barriers would allow free traders to reclaim their lost populist roots. In the old days, the trade debate typically pitted Democrats and the common man for free trade against Republicans and big business for protection. Free traders used explicitly populist rhetoric, condemning tariff walls as bastions of corruption and privilege. Today, free trade is all too often depicted as elitist—pumping up the profits of big multinationals at the expense of jobs for working men and women. Unilateralism would help to counteract that stereotype by focusing on those aspects of the free trade cause with the greatest populist appeal: cutting taxes, lowering prices, and eliminating corporate welfare.

Finally, a campaign for unilateral reform would liberate the free trade cause from the tangle of diversionary squabbles in which it is currently ensnared. Concerned about fast track's antidemocratic circumvention of normal congressional procedures? Worried about ceding sovereignty to faceless international bureaucrats? Offended by obnoxious practices (continuing trade barriers, subsidies, human rights abuses, drug trafficking, etc.) in the countries with which we strike trade deals? All of these issues become moot when the only question on the table is whether or not Congress, as a matter of purely domestic economic policy, ought to junk particular bad laws.

While they pursue unilateral reforms, free traders shouldn't give up on trade negotiations. International agreements can facilitate the liberalization process by enlisting export interests to support free trade at home; also, such agreements provide a useful institutional constraint against protectionist backsliding. But a new U.S. negotiating posture is needed, one that replaces demands for reciprocity with a commitment to free trade principles.

In traditional trade negotiations, countries offer to reduce import barriers in exchange for other countries' offers of equivalent reductions. In other words, freer markets at home are



treated as the price we pay for freer markets abroad. Indeed, in the parlance of GATT negotiations, a commitment to reduce tariffs is known officially as a "concession." Thus, the rhetoric of trade talks is premised on the protectionist notion that imports are harmful and trade barriers are prized strategic assets.

This is not a mere quibble: Protectionist assumptions and attitudes color every aspect of how trade agreements are currently negotiated and evaluated. Trade negotiators, in the process of championing freer trade, demand "reciprocity" from our trade partners. They insist that a "bad deal" (i.e., one in which we liberalize more than other countries do) is worse than no deal at all. They oppose domestic reforms outside the context of negotiations on the ground that our own bad policies are "bargaining chips" that should be retained for their exchange value. More ominously, they refer to liberalization without reciprocity as "unilateral disarmament." And when an agreement has been reached, free traders focus on the benefits to exporters, not importers. They tout the benefits of reducing foreign trade barriers, but say little or nothing about the benefits of reducing our own.

These features of conventional trade negotiations are no accident: They are part and parcel of the old diversion-and-appeasement strategy. But if free traders are to break from that dead-end approach, if they are to mount a head-on challenge to globalphobia, they will have to reinvent trade negotiations so that they don't perpetuate protectionist fallacies.

In areas where the United States still retains protectionist policies, it could identify other countries with similar barriers—but which are committed to reform—and negotiate simultaneous liberalization in a kind of "coordinated unilateralism." Unlike in reciprocity-based negotiations, the goal wouldn't be to swap "concessions" or to "win" at the bargaining table by "getting" more than you "give." Rather, the express purpose of the negotiations would be for each country to gain by reforming its own policies, but to maximize that gain by linking reforms to liberalization abroad. Reforming one's own policies would be a central negotiating objective rather than the downside of the transaction, while coordination would strengthen the political case for free trade by adding the benefits of liberalization abroad to those of market opening at home. For coordinated unilateralism to work, though, all countries involved would have to be committed to real reform. Otherwise obstructionism and holding out by some parties would become excuses for other countries to cling to their misguided policies, and the whole enterprise would degenerate into reciprocity as usual.

The United States can continue to take a leading role in trade negotiations even when it has already eliminated its protectionist policies. In that regard, consider the 1997 World Trade Organization agreements on telecommunications and financial services. Both agreements represented important breakthroughs, and both were negotiated in the absence of U.S. fast track authority. How was this possible? Fast track was unnecessary because none of the U.S. commitments under either agreement required changes in legislation. The major U.S. "concession" was to agree to "lock in" current levels of openness. The United States would not commit to do so, however, until a critical mass of other countries agreed to exceed a minimum threshold of liberalization.

These agreements show how unilateral reform and trade negotiations can complement and reinforce each other. Even without trade barriers, the United States can still exert powerful leverage at the bargaining table—not only through offers to lock in existing liberalization, but also because U.S. participation lends legitimacy to any international agreement and increases other countries' confidence in each other's commitments. Using that leverage, the United States could define negotiating objectives —for example, rules on the treatment of foreign investment, market access for the cross-border provision of services, and so on—and offer to elevate its own unilaterally adopted free trade policies into binding international commitments. That offer would be contingent, though, on pledges by other countries of credible and significant liberalization.

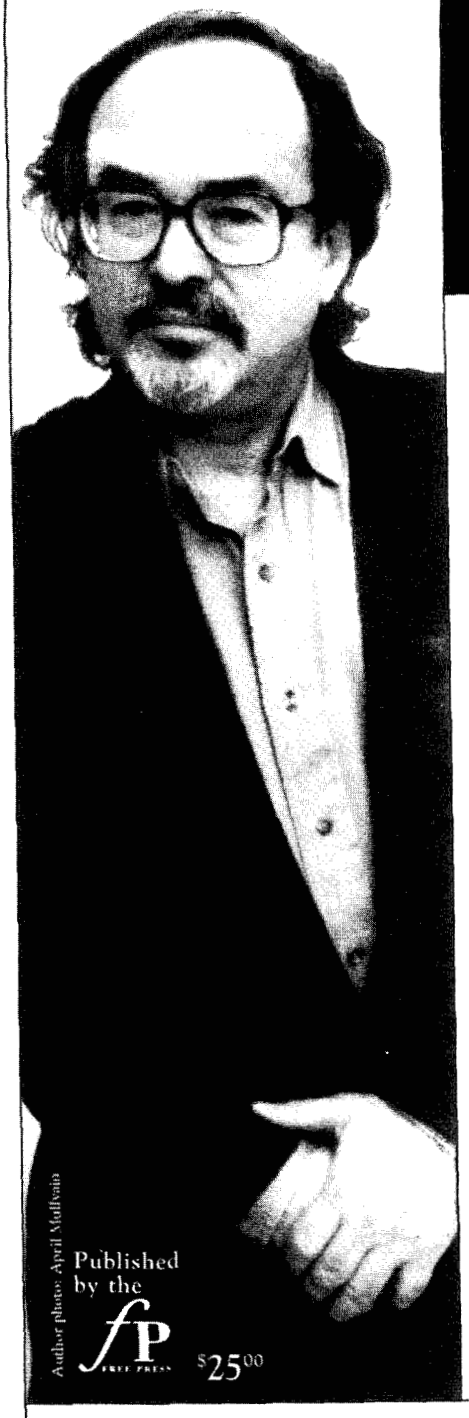
The viability of such an approach is not hypothetical: It worked in the telecom and financial services talks. True, in those negotiations the United States couched its position in terms of demands for reciprocity. But it could easily drop such rhetoric and adopt instead the following line: We pursue free trade policies at the national level because we believe it is in the U.S. interest to do so, but we will not commit ourselves internationally to any agreement unless it reflects a sufficiently serious commitment to free trade principles.

It is thus possible for the United States to remain engaged in the process of negotiated liberalization without fostering misconceptions that undermine free trade in the long term. The United States can still wield significant bargaining power—most important, by refusing to participate in watered-down agreements—without clinging to wrongheaded policies simply because other countries have not yet gotten rid of theirs. In short, the United States can enjoy the best of both the unilateral and the multilateral worlds. Unilateral liberalization, far from undermining trade negotiations, can put them on a much sounder footing.

Many supporters of free trade will be reluctant to abandon a tried and true strategy, but a sober assessment demonstrates that the old diversion-and-appeasement approach has outlived its usefulness. It is contributing to popular anxieties about globalization. It is bending trade negotiations away from true liberalization and toward international bureaucratization. In short, it is creating more problems than it solves.

There is a better way. Free traders have it in their power to promote their cause, here and abroad, with much greater effectiveness than at present. They can seize the intellectual initiative. They can frame issues in ways that give them the natural political advantage. They can set an example for the rest of the world to follow. And best of all, they can achieve these things by standing up for what they know to be true.

Contributing Editor Brink Lindsey (blindsey@cato.org) is director of the Cato Institute's Center for Trade Policy Studies. This article is adapted in part from a Cato Trade Policy Analysis titled "A New Track for U.S. Trade Policy."



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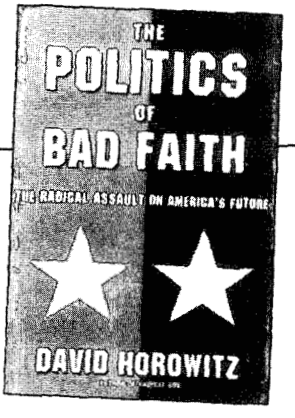

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Tongue of Newt

The political power of language

By John J. Pitney Jr.

Newt Gingrich may have left the Republican congressional leadership, but his spirit survives—on the Democratic side.

To understand the link, think back to 1990. At the time, Gingrich was the House Republican whip and general chairman of GOPAC, a committee for the training of Republican candidates. As the midterm congressional campaign got under way, GOPAC issued "Language: A Key Mechanism of Control," a linguistic guide for those who pleaded, "I wish I could speak like Newt."

The guide consisted of two lists, both of which grew out of focus group research. "Optimistic Positive Governing Words" such as *opportunity, challenge,* and *commitment* would help Republicans define their own vision. "Contrasting Words" such as *crisis, threaten, hypocricy* [sic], and *ideological* would help them define their opponents.

After Democrats attacked the guide as cynical and demeaning, Gingrich quickly disowned it as an aide's mistake. But in spite of their public indignation, the Democrats adopted its central idea: that language is indeed a mechanism for shaping the way people think about politics. Sometimes they openly acknowledged their intellectual debt to Gingrich. At a 1995 political retreat, Democratic senators and staff received an information packet that included the GOPAC document.

One reason the Democrats have done so well lately is that they have mastered both lists. These days, any speech by a Democratic politician will contain long stretches of "optimistic positive governing words," along with a few verbs and prepositions that give the illusion of thought. A typical passage sounds like this: "We have a precious opportunity to preserve our commitment to our families and protect the dreams of our children." Thanks to the list, speechwriters do not have to worry about order and logic. String the words together in another sequence, and they sound just as good: "Our families have precious dreams for our children, so we must preserve and protect our commitment to opportunity."

While these fuzzwords are dulling the listeners' capacity for critical thinking, the "contrasting" words are calling forth demonic images. Again, the Democrats have relied heavily on Gingrich's list, making adept use of such standards as *greed, selfish,* and *intolerant.* They've also made some additions, including *mean-spirited* and, of course, *extremist.* In the 1998 campaign, Sen. Barbara Boxer (D-Calif.) got away with applying the "extremist" label to GOP challenger Matt Fong, who is about as wild-eyed as Mr. Rogers. And in nearly every race, Democrats linked the Republican candidate to the king of the "extremists," Gingrich himself. As George C. Scott said in *Patton*: "Rommel, you magnificent bastard, I read your book!"

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THE CHANGE IN YOU IS REMARKABLE, LARRY. BEFORE CLINTON YOU WERE JUST ANOTHER TAXPAYER. BUT NOW... NOW YOU'RE AN INVESTOR.
CLINTON CALLS FOR MORE INVESTMENT

The political use of language involves more than the creation of positive or negative feelings. A virtuoso of the art will use wordplay to redefine the very terms of discussion. Here is where the Democrats have outdone Gingrich.

Seldom any more do they say, "We need to increase spending on federal domestic programs." Instead, they follow the lead of President Bill Clinton, who praised last fall's omnibus spending bill for making "critical investments in education and training." Not once in his statement did he use the word *spend.* Clever trick: "Spending" connotes loss, whereas "investment" implies the expectation of profit. Thus his words powerfully suggested that federal programs will pay for themselves—and then some—by making Americans more productive. Though the evidence points in the opposite direction, the language puts a daunting burden of proof on anyone who would balk at "investing" in workers and children.

Clinton's statement on the spending bill also said that it "added resources to protect the environment, to move people from welfare to work," and to do other nice things. That's typical: Spenders like to describe budget figures as "resources." When we hear the word, we tend to think vaguely of things natural and renewable—like pine cones. If you want to see how specious this language is, just try paying the IRS with

Chip B k

pine cones.

Even more Orwellian is the voguish phrase "bill of rights." The term originally meant a set of strict limitations on federal power, but now the statists have applied it to proposals for increasing Uncle Sam's intrusiveness. The "Patients' Bill of Rights Act," for example, would give Washington tighter control over managed-care plans. We've come a long way from "Congress shall make no law respecting an establishment of religion" to "The Secretary shall specify (and may from time to time update) the data required to be included in the minimum uniform data set under subsection (a) and the standard format for such data."

To regain the political initiative, free market advocates need to regain control of the political vocabulary. We should replace verbal smog with the crisp language of truth.

Take the word *surplus*, which the dictionary defines as "that which remains above what is used or needed." What do we do with surplus wheat or cheese? We give it away to the needy. So by extension, it apparently makes sense to donate the budget surplus to federal social programs—sorry, "critical investments."

Washington Post columnist (and a Reason Foundation trustee) James K. Glassman suggests that we break out of this mind-set by referring to excess revenues as "the overcharge." Unlike *surplus*, this term clearly indicates that the money really belongs to the people who paid it, and that they deserve a refund. If the language of "surplus" favors spending increases, the language of "overcharge" favors tax cuts.

Likewise, we should stop talking about the Social Security "Trust Fund." The system does not maintain a real trust fund, but instead a pile of Treasury securities—IOUs from the federal government. So let's call it what it is: "The IOU Account." Politicians can give florid speeches about protecting the "Trust Fund," but they could not muster the same eloquence on behalf of the "IOU Account."

We can take this approach to social issues, too. In recent years, the defenders of color-blind justice have made some progress in substituting the descriptive *preferential treatment* for the deceptive *affirmative action*. But the term does not go far enough in emphasizing that these schemes are zero-sum games: Advantaging certain groups always means disadvantaging the rest. Therefore, we should refer to such policies as "discrimination against Italians, Armenians, and Jews, among other groups." Try it: It drives the bad guys nuts.

By making a conscious effort to reform political language, free market advocates will be rejoining an old fight. In his 1946 essay "Politics and the English Language," Orwell cataloged some of the linguistic swindles and perversions that had long served powerful people. He wrote that "one ought to recognize that the present political chaos is connected with the decay of language, and that one can probably bring about some improvement by starting at the verbal end." ◆

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The 48-Hour Fix

A new law keeps moms and newborns in the hospital longer—but they still may be getting shorted on care.

By Mariel Garza

It's quite the rage these days to be mad at health care insurers, particularly those offering managed care. Health horror stories about patient dumping, "drive-through" procedures, and denial of emergency care abound in the news media. Politicians have gotten a lot of mileage from publicly lambasting health plans for putting profits above quality care.

One of the most compelling such tales concerns so-called drive-through deliveries: heartless insurers kicking mothers and their newborn infants out of hospitals, sometimes only a few hours after birth. Mothers being treated like so much cattle made for great sound bites. President Clinton himself condemned the practice and called for a law to force the nasty health plans to be nicer. And so we got the Newborns' and Mothers' Health Protection Act of 1996, which took effect at the beginning of 1998.

Some insurers have indeed shown poor judgment, but that's not the end of the story. Nor did the legislated solution make everything right. In fact, some health care providers say the law, offered as a panacea, is really just an ill-fitting band-aid. The law may actually endanger those it's supposed to protect by stunting the growth of a new health care market niche. With the strong Democratic showing in the recent elections, some form of a "patient bill of rights" is again a legislative possibility, so it's especially important to examine carefully the effects of government intrusion into health care.

Contrary to popular myth, shorter hospital stays after birth stemmed from the desires of families, rather than from a cost-cutting frenzy by insurers. According to the American Academy of Pediatrics, the movement toward shorter stays began in the 1980s, when people were looking for something between home birth and the full hospital delivery experience. This development accompanied an overall growth in the home health care industry, as consumers increasingly opted to get treatment outside of the hospital when possible. Not surprisingly, health plans liked the idea of shorter postpartum stays, which could save a bundle on expensive hospital bed days.

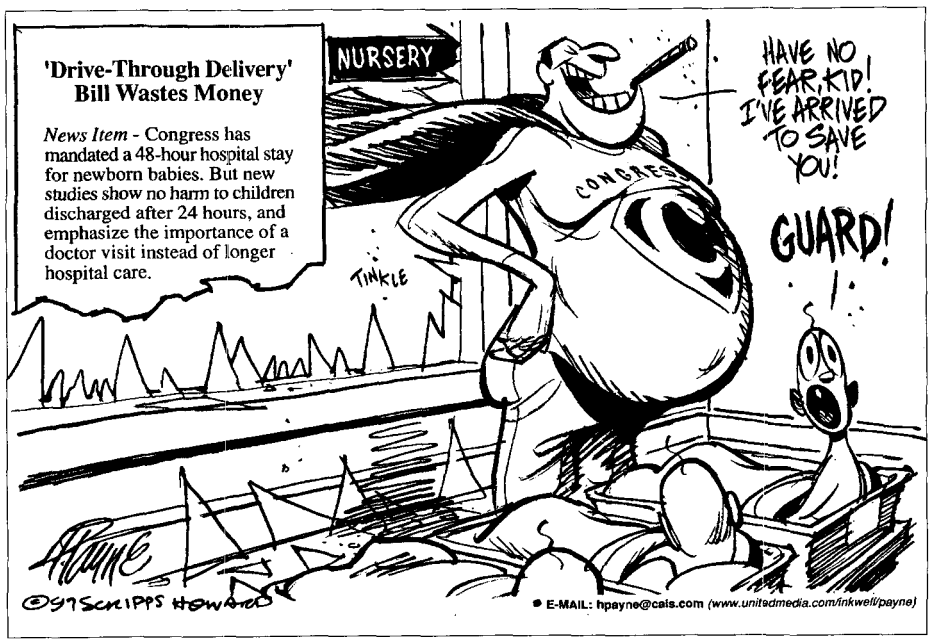
But the movement to recuperate from birth at home left a gap: Mothers still needed follow-up care. Nurses and traditional home health care companies recognized this emerging health care need and moved quickly to fill it.

By the early 1990s, a fast-growing maternal home health care niche had formed. Companies like Healthy Homecomings in St. Louis, founded by two former maternity ward nurses and later sold to a larger health care company, capitalized on the trend by offering home nursing visits to new mothers. The companies marketed their services to insurers by telling them it was fine to send mothers home early as long as they followed up with some sort of home health care.

It seemed not only workable but an ideal solution. Coupling shorter hospital stays with home visits by nurses allows mothers to recuperate in the familiar surroundings of home (to say nothing of the improvement at mealtimes). A home health nurse can better assess the progress of mother and child in their natural habitat. Nurses can make sure breast-feeding is working out OK. (New mothers don't automatically know what to do, and often nurses have to instruct them on how to feed their hungry babies.) More important, nurses can catch problems that could send a baby to the emergency room. Conditions like sepsis or jaundice—one of the bigger concerns for newborns because it signifies a liver problem—often do not show up until after 48 hours.

Best of all for health plans, shorter postpartum stays followed by an in-home checkup save money. A day in the hospital can cost thousands of dollars. A home nursing visit, by contrast, comes with a price tag of no more than a few hundred dollars.

Despite what seemed an obvious money-saving formula, maternal home care providers say it wasn't easy to convince health care payers to add a home visit to the care package. So mothers continued to go home earlier and earlier, but often


'Drive-Through Delivery' Bill Wastes Money
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with no follow-up care until the next pediatrician visit.

Unfortunately for this new business niche, there are always some who will take a good idea to its illogical extreme. Some managed care companies and health plans abbreviated post-birth time in the hospital so much that people started getting upset. The public was appalled by the stories of women sent home dazed and sore with a baby only a few hours old.

The reaction reached its highest pitch in 1996, whipped up by politicians quick to jump behind a popular issue with an appealing name. Several states adopted legislation setting mandatory hospital stays. By the end of the year, the Newborns' and Mothers' Health Protection Act was law. It prohibits insurers from forcing new mothers to leave the hospital before 48 hours after a normal birth, 96 hours in the case of a Cesarean section.

While regulating health care—which depends on a variety of factors, many having nothing to do with money—is often tricky, the solution to "drive-through deliveries" must have seemed crystal clear: Keep new moms in the hospital for two days—one day to sleep, the other to get ready to leave. Problem solved.

But according to Lenore Williams, cofounder of Professional Nurse Associates, a Cleveland company specializing in maternal home care, the problems were far from solved for health care workers fighting to persuade insurers of the preventive value of postpartum home care. In fact, the new legislation has made it tougher for them to convince health plans that such care is important, even though, on average, it takes only one low-cost home visit to determine if the baby is off to a good start. Suddenly, all a health plan had to do to be a good guy was to let moms stay in the hospital for two days after delivery. "They think, 'We've met the letter of the law and we don't have to do anything now,'" Williams says.

No one has been able to state with certainty the ideal time that a new mother should stay in the hospital; each delivery is different. But even 48 hours is likely too short a time if it's not followed up, Williams says. Some of the health insurers she works with recognize that and have continued to provide outpatient home care for

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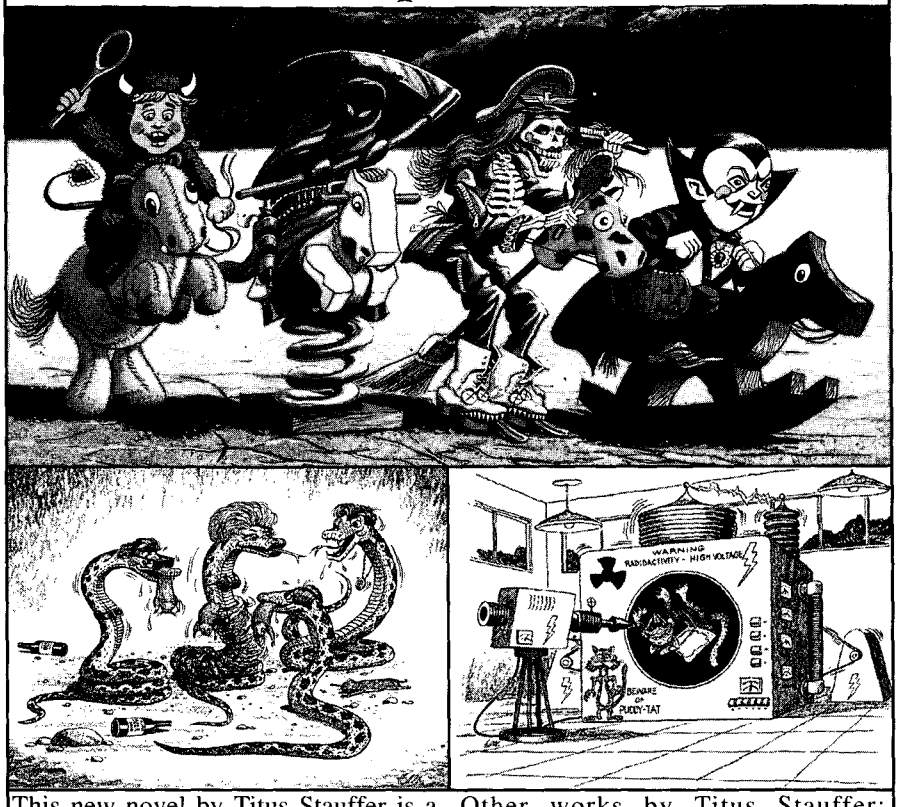

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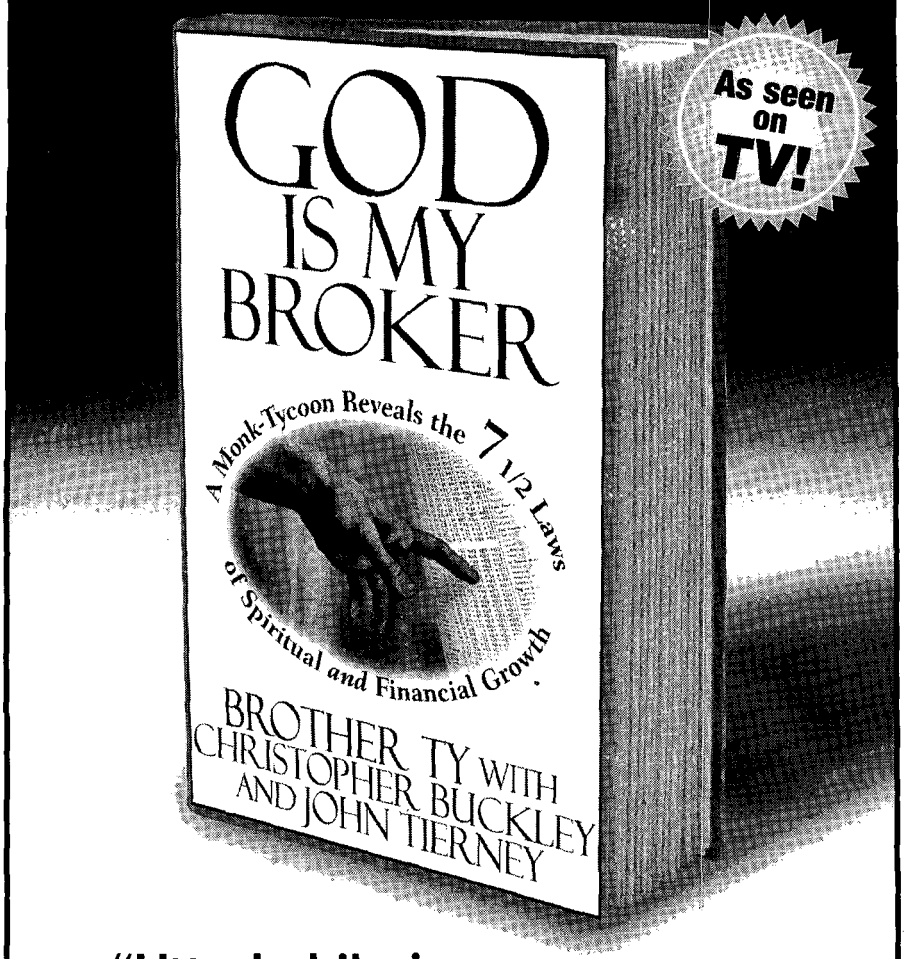
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mothers and their newborns.

It works, too, Williams says. She recalls a recent day she had two postpartum home visits. In both cases, she found the babies in dire need, nearly requiring blood transfusions. In fact, if a nurse had not visited the babies, that's very likely what would have happened later—costly emergency room visits for a couple of very sick babies.

Study after study abstracted in the American Medical Association's database supports Williams' assertion: Shorter hospital stays don't necessarily hurt the future health of newborns, provided they get follow-up outpatient care. Further, the American Academy of Pediatrics stated in 1995 that "discharge of a newborn from the hospital should be the decision of the

Simply mandating that mothers be kept in the hospital for a certain amount of time impedes the evolution of health care, which allows people to be treated in alternative ways and places.

physician caring for the baby, not by arbitrary policy established by third-party payers." But what might make medical sense doesn't always translate into a simple, public-pleasing solution that can be enforced by another regulation. Simply mandating that mothers be kept in the hospital for a certain amount of time impedes the evolution of health care, which allows people to be treated in alternative ways and places. Granted, that evolution will sometimes beget a monstrosity, and the public will want it dead. But as with all evolution, the road to stronger systems has some jarring bumps.

For now, the road ahead appears to lead instead to more regulation. With the supposed success of the "drive-through delivery" legislation, we can look forward to blanket rules covering more health care "problems." Next target for our caring lawmakers: "drive-through mastectomies." ◆

Mariel Garza (mariel@reason.com) is assistant managing editor of REASON.

Rank and Bile

How the Teamsters try to silence dissenters.

By Michael W. Lynch

Steve Beard recalls clearly when he started to think that his union didn't always serve his interests. It was after Christmas in 1989, his first year working as a loader and unloader for United Parcel Service in Sunnyvale, California. UPS had made record profits and announced bonuses of $1,000 for each full-timer and half that for part-timers like Beard, who was making $9 an hour working the shift from 3 a.m. to 8 a.m.

"That was two weeks' pay," says Beard, who at the time was 19 and playing football for a local junior college. But his union, Teamster Local 287, didn't care. It opposed the bonuses. A union steward even asked Beard to protest the bonus by not cashing his check. (Beard reckons the union's aversion to bonuses was directly related to its dues structure. Since monthly dues were two hours' pay, the union didn't get a cut of non-hourly compensation.) "My attitude was, 'Screw you, I'm going to cash it,'" boasts Beard. And he did.

A decade later, Beard retains his "screw you" attitude toward the union. He complains of union opposition to profit sharing and stock options. "It's so hypocritical," he explains. "The union complains about the profit—why doesn't it want some of it?" And it has rubbed him raw over the years that the Teamsters won't allow UPS to negotiate airline benefits for its workers on the commercial carriers it uses to ship packages. Like the cash bonuses, such perquisites would be non-hourly compensation. "Federal Express negotiated airline benefits," he points out. And in August 1997, Beard was enraged when the "crazy zealots running the union sent us out to strike without a vote on the contract."

In September 1997, after the strike was settled, Beard stumbled upon *Beck* rights on the Internet. Under the Supreme Court decision by that name, he discovered, employees working under union contracts have the right to resign from the union without losing their jobs, continuing to pay only the portion of dues that covers contract negotiation and maintenance. He resigned from the union and kept his job. It was his final "screw you"—or so he thought.

The Teamsters are now attempting to screw Beard. On December 4, 1997, Local 287's internal court convicted him of calling "a group of drivers, television and newspaper reporters to undermine the Union on the United Parcel Service/Teamster contract." It fined him $10,000.

On July 9, 1997, Teamsters rank and file voted to authorize a strike against UPS, a tactic known as a "leverage vote," which puts the company on notice that if talks break down, union leadership can call a strike. So the strike called in August wasn't unauthorized. What Beard and others objected to was that the Teamsters leadership sent the drivers out to picket their employer and harass their customers without allowing them the opportunity to read and vote on UPS's last contract offer. To communicate to other drivers, his customers, and the public his desire to vote on the contract, Beard gathered a few other drivers to speak with print and television reporters. It's for this exercise of free assembly and free speech that he was charged with undermining the union and fined. Beard worries that if he is forced to pay, he will lose his house.

During the UPS strike, driver Steve Beard spoke with reporters about his desire to vote on a contract. For this excercise of free speech, he was charged with undermining the union and fined $10,000.

Teamsters Local 287 is not the only labor union that expresses contempt for the free speech rights Americans take for granted. And one need not be a longtime rabble-rouser like Beard to be fined into silence. About three hours northeast of Sunnyvale in the greater Sacramento area, seven members of Teamsters Local 150 are facing fines ranging from $1,000 to $4,500. They, too, publicly expressed a desire to review and vote on the final UPS contract offer before being forced to pick up picket signs for $55 a week.

Like Beard, one of the seven, Billy Radakovitz, faces a fine for speaking to the press at his own house. The official charge, of which he was convicted in an internal court, reads as follows:

"On or about August 11, 1997, Brothers Amick, Baker, and Radakovitz provided an interview with the media, knowingly gave or attempted to give, directly or indirectly, information to UPS and the public in general, for the purpose of assisting the Employer, and knowingly sought to undermine the official strike activities by unauthorized means."

In addition to Radakovitz's backyard press conference, seven members of Local 150 headed to the state capitol, where they called for a contract vote on August 15, 1998. "I told the media that UPS was offering a contract they claimed was fair and the Teamsters claimed it was terrible and I just wanted to see the contract myself and decide for myself whether it is indeed fair or not," recalls Radakovitz, whose picket sign stated "Let Us Vote." Because of this action, which Local 150 characterizes as "an unauthorized assembly," the union fined the seven drivers $2,500 each for voicing "their objection to the official policies of the Union."

Radakovitz, unlike Beard, is not funda-

mentally anti-union, although he admits he would be considered "pro-company" in a drivers' world which sorts individuals into the three categories of "pro-union," "pro-company," and "don't care." (Just under half are reportedly split evenly between the first two factions, the agnostics being the largest group.) "I love my job," Radakovitz enthuses. "I've had some crappy jobs I've been paid a quarter of this to do. Sometimes I'll just chuckle that they pay me to do this."

Combined with his enthusiasm is the economic reality that the Radakovitzes need each of Billy's roughly $800-a-week paychecks to keep current on their mortgage and enable his wife, Laura, to remain home to take care of their three children.

"I wasn't going to watch the bank take my house away because I was out of work," says Radakovitz. So before he went out on strike, he wanted some questions answered about the specifics of the proposed contract. For his inquisitiveness, Radakovitz now faces fines of $3,500.

"I'm quite surprised they would do this," says Clyde W. Summers, a labor law specialist at the University of Pennsylvania Law School and co-author of an ACLU handbook titled *The Rights of Union Members*. Labor law is a tangled thicket, and one normally needs the guidance of a machete-wielding lawyer to trudge through it. But the right of members to free speech is one area that labor law followers across the political spectrum agree is relatively straightforward.

Labor unions, as constituted under the National Labor Relations Act and The Railway Labor Act, are anomalous institutions in American society. They appear to be private associations and thus, like the Reason Foundation, General Motors, or a Bible study group, don't have to guarantee members free speech. And this is partially true. Unions aren't restricted by the Bill of Rights.

But since the federal government grants unions the rights of "exclusive representation," which they then use to justify the forced payment of dues from members and *Beck* objectors alike, they aren't private, voluntary associations. "The rights of individuals with reference to their union," Summers' ACLU handbook notes, "are much like the rights of citizens in reference to their government."

Just as the Framers of the Constitution attempted to limit the federal government's authority over individuals with the Bill of Rights, Congress attempted to limit the power of labor unions over the individuals they represent with the 1959 Landrum-Griffen Act. The first title of this act, the "Bill of Rights of Members of Labor Organizations," grants union members free speech rights that are at least as broad as those protected by the First Amendment.

The act's "freedom of speech and assembly" clause states: "Every member of any labor organization shall have the right to meet and assemble freely with other members; and to express views, arguments, or opinions." There is an exception: "Nothing herein shall be construed to impair the right of a labor organization to adopt and enforce reasonable rules as to the responsibility of every member toward the organization and to his refraining from conduct that would interfere with its performance of its legal or contractual obligations." But courts have read this exception narrowly to include such obviously detrimental actions as advocating the decertification of the union or disclosing confidential bargaining strategy.

"I would say that this is a violation of their free speech rights under Landrum-Griffen," says Summers when I describe the Beard and Radakovitz's cases to him. Summers tell of a 1973 case, *Kuebler v. Lithographers and Photo-Engravers Local 24-P*, in which union members formed a caucus during a strike to urge a settlement. The union attempted to punish the caucus members, but the 6th Circuit Court of Appeals ruled that even speech during a strike was protected.

"So the protection of free speech in this situation goes a long way," says Summers. "The fact that [Beard and Radakovitz] brought in the press doesn't matter, because the statute makes clear they are free to make their speeches inside or outside the union."

Indeed, that is what Radakovitz thought. Before he spoke to the press, his wife read the relevant portion of Summers' handbook. "We knew it was our right to do this," she says.

So where does that leave the eight dissidents? The union is free to convict in its internal courts, but to collect the fines, especially against members who subsequently quit the union, as did Radakovitz and Beard, the Teamsters must rely on civil courts. Local 287's attorney, Kenneth C. Absalom, of the San Francisco firm of Beeson, Taylor & Bodine, sent Beard a letter on October 6, 1998, promising to

HENRY PAYNE

"proceed with collection proceedings," but Beard has heard nothing from him or the union since. Local 287 Secretary-Treasurer Ray Corrie claims to be "collecting the money in court." He denies that union members forgo free speech rights when signing up for his union. He refers me to Absalom, who refuses to talk to REASON, fearing that it is read by the folks at the National Right to Work Foundation, the non-profit legal defense organization that is representing Beard.

For his part, Beard expects Local 287, which has proceeded against him in inexplicable spurts and stops, like a rookie driver with a stick shift, to sue him in state court. He plans to fight as long as it takes to vindicate his right to free speech.

"I have been so confident that anybody in this country could stand up and ask a question without being made out to be a criminal," Radakovitz says. "I just wanted some answers to some questions."

Radakovitz and three others fighting Local 150 are set to appear on January 4, 1999, in the Placer County's Small Claims Court. Two others will fight their cases out in the Sacramento County Small Claims Court two days later. If they lose in small claims court, where they must represent themselves, they are free to take their case to California's state courts for full-blown litigation. Radakovitz, like Beard, plans to fight until he wins or runs out of courts.

"If the union actually wins," says Radakovitz, "morally I am not sure how I will handle it. I have been so confident that anybody in this country could stand up and ask a question without being made out to be a criminal. I just wanted some answers to some questions." ◆

Michael W. Lynch (mlynch@reasondc.org) is REASON*'s Washington editor.*

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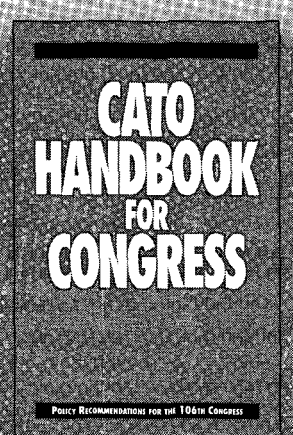

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Standard Accommodations

The road to universal disability

By Walter Olson

I've sometimes wondered why upper-middle-class politicians treat the disabled-rights lobby with such gingerly deference, and now I think I've figured out the answer: That lobby may soon represent a majority of their constituents. Last April the *Hartford Courant* reported that nearly one in three high school students in the famously affluent Connecticut town of Greenwich are now officially regarded as "disabled." It seems competitive Greenwich parents these days no more think of sending the youngsters back to school without a disability designation than without a new parka and pencil kit.

If you want an advance peek at how disabled-rights law might play out in the rest of American society a few years down the road, look what it's doing to American education right now. Driven by laws which make disability designation the key to a long list of entitlements from private tutoring to extra time on tests, special ed is busting school budgets nationwide. In Connecticut, farther down this particular road than most states, special ed by itself now consumes, on average, 18 percent of school budgets; in rural Voluntown, the figure has hit 29 percent.

Parents want the best for their kids, and the advantages of a medicalized label such as "learning disability" can be substantial, including individually tailored learning plans, laptop computers, and the right to take notes when other students can't. "You get a lot more one-on-one time with your teachers," said one Greenwich student. So friendly experts hang out shingles advertising their diagnostic skills, while entrepreneurial lawyers organize parents to press their rights.

Under federal law, schools that want to resist demands for special ed services must jump through elaborate due process hoops and risk "one-way" attorney fee awards (the school system pays both sides' lawyers if it loses but collects nothing if it wins). Between 1990 and 1994, the number of formal special ed appeals tripled in the Nutmeg State. "I used to be able to put a year's worth of hearing records in one file cabinet," state special ed attorney Theresa DeFrancis told the *Courant.* "They are in five or six cabinets now."

For ground-level educators, the hassle is astounding. A few months ago one of my neighbors, the principal of a middle school in a nearby Connecticut town, told me he now is obliged to spend half his time on special ed issues. I thought he had to be exaggerating, yet the *Courant* spoke to other principals who estimated they too were spending half their time on such demands.

School officials are often reluctant to give offense, but many in this case were willing to be outspoken. "Nobody is slow anymore," commented Norwalk Superintendent Ralph Sloan. "If you are not in the fast track, you have a disability." "Anybody can be 'special education,' " added Middletown special ed chief Mariann Rossi-Ondusky. "I've just got to give you the right tests." Reported diagnosis rates vary drastically from town to town, with the apparent incidence of learning disability, for example, running from less than 3 percent to nearly 20 percent. Curiously, some of the state's lowest reported percentages come from Bridgeport, a city almost as famous for poverty as Greenwich is for wealth. To the extent that childhood disabilities correlate with public health woes —deficits in nutrition or prenatal care, for instance—you'd expect Bridgeport to have the high numbers and Greenwich the low. But then, not many Bridgeport parents can afford those pricey lawyers and child development experts.

The Civil Rights Commission's Russell Redenbaugh—blinded when he was 17—fears "that the ADA...regulations can have a chilling effect on the hiring of the disabled."

Having grown to expect special assistance in grade school, the new Disabled Generation is apt to level similar demands as it moves through college and into the workplace. Already 5 percent of Connecticut kids, up from 2 percent a decade ago, are getting accommodations on the SAT, mostly extra time. At the level of professional and occupational testing, the legal sparring is intense. In a widely watched case last fall, the U.S. Court of Appeals for the 2nd Circuit ruled that the New York State Board of Law Examiners had violated Marilyn Bartlett's rights by refusing her further accommodation. Bartlett had already failed the bar exam five times, despite such accommodations for her learning disability as a 50 percent time bonus, a private room, and an assistant to read the exam questions aloud.

What the law is really doing in such cases, it seems clear, is forcibly redefining old standards of competence. Just as the PGA wrongly imagined until the Casey Martin case that it had the right to define golf in the traditional manner to include walking from hole to hole, so the bar examiners must be disabused of the idea that they can hold aspiring lawyers to traditional legal skills such as the ability to assimilate large amounts of written material quickly. The same lesson is being taught to the administrators of medical exams, who are nowadays steadily yielding ground to the demands of would-be M.D.s with L.D. diagnoses in their hip pockets.

Don't assume the institutions downstream—the hospitals and law firms who hire the newly fledged doctors and lawyers—will be able to act as backstop when standards decline. In general, it's considered a violation of the law for an employer to count against an applicant that his tran-

Eliminate, Don't Reform the IRS

by Sheldon Richman

Yet again a taxpayer "bill of rights" has been enacted into law. And so, after all the recent revelations of Internal Revenue Service abuse, we can all now be confident the tax collector will respect the rights and dignity of every American.

Right. And pigs have started flying.

We've been here before. This is the third so-called bill of rights for taxpayers passed in recent years. Doesn't that strike you as strange? Do you think they got it right this time?

At first glance, the law might look like it will afford some protection for taxpayers. It will create a nine-member board to oversee operations, six of whose members will be from the private sector. The law will also shift the burden of proof from the taxpayer to the IRS in court cases. Currently, the taxpayer is guilty until he proves himself innocent. Other provisions will let citizens harmed by IRS negligence sue for damages and relieve taxpayers of liabilities of former spouses. Homes can no longer be seized without a court order. Some penalties will be reduced and IRS deadlines tightened.

But in the world of legislation, especially IRS "reform" legislation, things, as W.S. Gilbert wrote, "are seldom what they seem."

The oversight board and the shift in the burden of proof "are said to be the silver bullets that will end IRS abuse," writes Daniel J. Pilla, one of the great IRS watchers. "They are more likely to be blank cartridges."

Pilla writes that the oversight board is not what we have been led to believe it is. To judge by the news summaries, you'd think that this board of overseers will be able to come to the rescue of battered citizens. But that's not the case. The new body will be involved in planning for the future and in overseeing the IRS budget and commissioner. "In other words," writes Pilla, "the Board will function as a forum for thinking about the overall direction of the IRS." It won't have the power to prevent agents from treating taxpayers like child molesters. Pilla notes that the board is specifically denied authority over the agency's law-enforcement apparatus. Don't expect it to rectify the abuses associated with audits and other activities designed to wring more revenue of Americans. Pilla says the board could not avert the tyrannical conduct citizens reported at Senate Finance Committee hearings.

And what of the burden of proof? A clue to the bogus nature of the "reform" lies in the bill's command that Americans keep records and cooperate with the IRS during investigations. In other words, the IRS may have the nominal burden of proof, but you must furnish the records it will use against you. But there's even less to this provision than meets the eye. The burden is shifted only in court proceedings. "The problem," Pilla writes, "is that 97 percent of everything the IRS does involves no 'court proceeding.'" Most of the problems that citizens have with the IRS occur outside of the court. They involve, Pilla says, "its powers of lien, levy, and seizure." In other words, the shift in the burden will make no difference to most taxpayers who are hounded by the IRS.

Even in court, there is hardly real relief forthcoming. To shift the burden to the government, a taxpayer will have to make a "reasonable" case that the IRS position is defective. In otherwords, the citizen has the burden of showing that the burden should be shifted! Some protection.

Bills of rights have never restrained the IRS. In a sense, it's not the agency's fault. The fault lies with Congress, which has charged the IRS with extracting more than a trillion dollars from the hide of the American people. There's no way to do that while being nice. No amount of legislation will make the agency a "service provider." Taxpayers cannot be its customers.

There is one way — and only one way — to respect taxpayer rights: Repeal all income taxes, abolish the IRS, and repeal the outrageous spending that requires them.

Sheldon Richman is senior fellow at The Future of Freedom Foundation in Fairfax, Va., author of its forthcoming book *Your Money or Your Life: Why We Must Abolish the Income Tax*, and editor of *The Freeman* magazine.

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script indicates a record of accommodation, or to ask what kinds of accommodations were given or what disabilities were claimed. In fact, disabled-rights activists have been pressing for the elimination of the loathed asterisk indicating that a test was taken under nonstandard conditions, arguing that it violates the applicant's privacy rights.

After her excellent August 1997 *New Republic* article criticizing the boom in college-level accommodation demands, writer Ruth Shalit came under attack from disability activists. Typical was an Ohio State law professor's overheated view of the supposed consequences of Shalit's views: "Better to let them be uneducated and unemployed, drawing on our welfare rolls." From this and a thousand similar statements by advocates, you might conclude that, whatever the high costs and whatever the damage to standards of competence disabled-rights laws might be doing, they can at least be defended as effective in enabling disabled persons to work rather than sink into dependence on government checks.

But that's not so. The newest study on disabled employment, released last summer, confirms what informed observers already realized: The sweeping laws passed in the last two decades, including the Americans with Disabilities Act and various others, have been an utter failure at their announced aim of moving disabled persons into work. The more laws we pass in the name of disabled rights, in fact, the more disabled people seem to sit home jobless.

Last summer's bad news came from a Harris survey for the National Organization on Disability, which found that 29 percent of disabled persons are employed full or part time, down from 33 percent in 1986, notwithstanding a decade-plus of the most intense legislation and activism on behalf of the disabled, the centerpiece being the ADA. Other studies confirm a drop in labor force participation by the disabled since the law's passage. None of the numbers are perfect, and definitions of disability vary widely from one study to another. But at a hearing convened by the U.S. Civil Rights Commission on November 12, academic demographers agreed that the trend is indeed downward.

The one exception—seeming and temporary—was a set of Census Bureau figures released with great fanfare in 1996; it showed jobless rates for the disabled falling modestly by one measure between 1991 and 1994. As it happens, however, those were years of strong recovery from the trough of the 1991 recession, and the same rates fell more sharply among nondisabled workers, which meant the gap between the two groups actually widened. To this day, some disabled advocates still cite the census numbers to assert that the ADA "created hundreds of thousands of jobs."

Disabled Skeptic: Civil Rights Commisssion member Russell Redenbaugh

The deterioration of the job situation for the disabled does not, of course, prove that the ADA has actually made things worse. Quite possibly the numbers owe more to the "welfare trap" effect in which beneficiaries spurn work rather than give up their Social Security benefits, including health coverage. But to Russell Redenbaugh, a member of the Civil Rights Commission (CRC), it at least suggests that the time has come to examine some of the unintended effects the law may be having.

In September, Redenbaugh was the lone CRC member to file a dissent when the federal advisory panel came out with a lengthy report rejecting second thoughts about the ADA's effects and calling for—what else?—stepped-up enforcement. Pointing out that "the definitions and concepts of Title I have been expanded in almost every way imaginable, with the resultant trivialization of 'disability,' " Redenbaugh expressed his fear that "laws and regulations that are designed to enhance opportunity and expand rights often can end up serving as constraints and limitations to both."

A Philadelphia investment manager and political independent appointed to the CRC in 1990, Redenbaugh brings an unusual degree of personal experience to bear on the issue, being the only disabled member to serve on the commission since it was set up in 1957. (He was blinded and lost most of the use of his hands in an explosion when he was 17.) As a business person, he's also familiar with the hiring process. So it's worth paying attention when he says he thinks one of the ways the ADA has backfired is by forbidding employers from asking questions "likely to elicit information about a disability" at any stage of a job interview before an offer is made: "My own fear is that the ADA implementing regulations can have a chilling effect on the hiring of the disabled."

Provocatively, Redenbaugh's dissent includes a list of 16 extreme or remarkable ADA cases that have reached courts around the country, many of which, he writes, "defy credulity and are absolutely not what we intended when we passed the law."

That's exactly the sort of thing that drives the other side crazy: Disabled-rights advocates have virtually tagged it as a hate crime to trade "horror stories" about the statute, as some of us have been known to do from time to time. It must take a certain quiet courage for this seemingly mild-mannered public figure to risk the kind of vilification he could face if the disabled-rights community—which, to put it mildly, does not have a record of taking criticism gracefully—identifies him as the equivalent of a "disabled Tom Sowell."

Even if the civil rights establishment resists the temptation to go after Redenbaugh personally, they're almost certain to tune out his message. In doing so, they'll put themselves in the role of the husband stepping on the gas pedal in the old joke. "But, Harold," his wife objects, "aren't we headed in the wrong direction?" "Who cares?" Harold replies. "We're making great time." ◆

Contributing Editor Walter Olson (hambo@mags.net) is the author of The Excuse Factory *(The Free Press) and a senior fellow at the Manhattan Institute.*

Unexplored Tributaries

By Richard A. Epstein

The Shape of the River: Long-Term Consequences of Considering Race in College and University Admissions, by William G. Bowen and Derek Bok, Princeton: Princeton University Press, 472 pages, $24.95

The debate over affirmative action in college admissions has often been couched in terms of moral imperatives. On one side stand the advocates of a color-blind world, who take their cue from Justice John Marshall Harlan's powerful 1896 dissent in *Plessy v. Ferguson*, which protested judicial acquiescence to racial segregation in the South. Today the opponents of affirmative action hark back to Harlan's theme: Race is irrelevant; only individual merit should determine the distribution of awards and honors in society.

Pitted against the opponents of affirmative action are the equally vocal and passionate educators and social leaders who view with abiding skepticism any abstract moral commitment to color blindness. They believe that affirmative action is necessary in many walks of life. Some of them insist that race-conscious policies must be used to rectify the many forms of discrimination—some invidious, some unconscious—that have scarred the American past and continue to shape its future. Others, including William G. Bowen and Derek Bok, do not emphasize this backward-looking justification. Rather, they advocate diversity in admissions to ensure minorities a meaningful place in the university community, not only for their benefit but for the benefit of everyone else as well.

Much is left unsettled in a debate that takes place at so high a level. The opponents of affirmative action too often sound dogmatic and absolutist in their attacks on what has become a widespread social practice. For their part, the defenders of affirmative action come off as special pleaders who always manage to advance some convenient social justification for policies from which they reap enormous benefits. The constant struggle between this white applicant who has been passed over (or claims such) and that black applicant with inferior academic credentials adds a sharp, human edge to the controversy, which is only partially blunted by the reassurance that affirmative action policies (sometimes gussied up as "race-sensitive" admissions) make everything work out in the long run.

Into this maelstrom have waded two formidable defenders of affirmative action, both with impeccable academic credentials. Bowen, a former president of Princeton University, now heads the Andrew W. Mellon Foundation. Bok, a former president of Harvard University and dean of the Harvard Law School, now teaches in Harvard's John F. Kennedy School of Government. Both men presided over great American universities noted for their unwavering commitment to affirmative action. In *The Shape of the River*, they defend in principle the policies that they implemented in practice. They do so in a low-key, measured fashion, with all hyperbolic observations carefully excised. Like Jack Webb, they ask for "just the facts." They believe that once these have been assembled, their detailed account of affirmative action programs will speak for itself.

School Colors: Former university presidents William G. Bowen and Derek Bok advocate affirmative action to ensure minorities a place in academia.

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Bowen and Bok's odd title is consciously lifted from Mark Twain's *Life on the Mississippi*, where that great author notes that any riverboat pilot has to "know the shape of the river perfectly" for navigating both up and down the Mississippi, day or night. That image does not quite work, however. The riverboat pilot has to proceed from detailed firsthand knowledge precisely because maps and charts offer fallible guides. But Bowen and Bok do not rely primarily on experience, anecdote, hunch, or intuition to make their case, even if they intersperse their book with some well-chosen remarks of black and white devotees of affirmative action (without once offering any opposing voices). Recognizing that pleasing testimonials will not win over the determined doubters, Bowen and Bok appeal to data.

The data come from surveys of black and white students who enrolled in the freshman classes of 28 selective private and public universities in 1976 and in 1989. The schools covered by the study are mostly private, with only three public institutions among them, all of which rank in the third (lowest) tier of selectivity. Bowen and Bok measured selectivity based on the combined math and verbal SAT scores of the students who enrolled. The first tier, with average scores over 1300, consists of Bryn Mawr, Duke, Princeton, Rice, Stanford, Swarthmore, Williams, and Yale. The second tier, with average scores between 1151 and 1300, consists of Barnard, Columbia, Emory, Hamil-

ton, Kenyon, Northwestern, Oberlin, Pennsylvania, Smith, Tufts, Vanderbilt, Washington University, Wellesley, and Wesleyan. The third tier, with average scores of 1150 or below, consists of Denison, Miami (Ohio), University of Michigan (Ann Arbor), University of North Carolina (Chapel Hill), Penn State, and Tulane.

Bowen and Bok chose two widely separated dates to represent different eras. They excluded more-recent years because there was not enough opportunity to follow these students after college graduation. They also omitted any assessment of affirmative action for Hispanic or Native American populations. In addition, the study leaves out some highly selective universities (Harvard and the University of Chicago among them) and, more important, most major state universities, including those in the California and Texas systems, whose affirmative action programs have been curbed by external pressures. (California's programs were brought to a halt by its Board of Regents, whose decision was ratified in a 1996 state referendum. The Texas system reached the same result through a 1996 ruling by the U.S. Court of Appeals for the 5th Circuit.) Nor does the book tackle the thorny problem of affirmative action in faculty hiring—a critical omission.

Racial Gaps in SAT Scores for Freshmen Admitted in 1992

College	SAT Racial Gap	Mean Black SAT
Harvard	–95	1,305
Princeton	–150	1,172
Brown	–150	1,160
Pennsylvania	–150	1,135
Stanford	–171	1,164
Northwestern	–180	1,075
Columbia	–182	1,128
Duke	–184	1,126
Dartmouth	–218	1,112
Virginia	–241	979
Rice	–271	1,093
U.C., Berkeley	–288	947

Source: *America in Black and White*, by Stephan Thernstrom and Abigail Thernstrom (Simon & Schuster)

Within their carefully constrained universe, Bowen and Bok offer a moderately persuasive account of affirmative action's successes. They note that race-blind admissions policies at these selective schools, no matter how extensive their outreach programs, would sharply reduce the black presence on campus, from more than 7 percent of students to about 2 percent. They also make a strong case that any sensible admissions program takes into account more than grades and test scores in determining the relative "merit" of different applicants. They show that, within the pool of black applicants, admissions practices proceed along rational lines: Black students with stronger records generally do better than black students with weaker records. They demonstrate that the black students admitted to the first tier of selective schools have better records, higher graduation rates, better success in graduate and professional school, higher earnings profiles, more community involvement, and higher levels of personal satisfaction than black students who enroll in second- and third-tier institutions. The demoralizing effects of affirmative action are more hypothetical than real to the black students who benefit from their participation in these programs. It is no mystery why most black students strongly support diversity on campus and beyond.

Bowen and Bok believe this procession of happy findings renders affirmative action bulletproof. They display a certain impatience with critics of racial preferences, such as Abigail and Stephan Thernstrom, for harping on the conspicuous failures of affirmative action while ignoring its quieter, daily victories. My own views on this subject are more mixed, but it seems to me that Bowen and Bok's celebration is a bit premature. Here are some reasons.

The authors regrettably understate the connection between what happens at elite institutions and what happens at other schools. The ability of selective colleges and universities to gobble up all the credible black candidates influences the success or failure of affirmative action programs at second-tier institutions. Even if those students are "qualified" for admission, they are likely to be bunched at the bottom of the class, creating internal tensions that could more easily be obviated if black and white candidates within institutions competed on a more equal footing. It may be unrealistic to expect strong institutions to abandon affirmative action programs so their less distinguished rivals might succeed. But even if it is unwise to ask the highly selective colleges and universities to change their policies, it would be nice to see some acknowledgment that their gain produces some external pain.

Bowen and Bok's narrowness of vision leads to graver omissions. They argue that the issue of affirmative action arises only in selective universities with the luxury of rejecting some portion of their applicant pool. They tell us: "Many people are unaware of how few colleges and universities have enough applicants to be able to pick and choose among them. There is no single, unambiguous way of identifying the number of such schools, but we estimate that only about 20 to 30 percent of all four-year colleges and universities are in this category." But that reassurance rings hollow unless we are confident that all the large, flagship state universities are not on the list of selective schools. If some of them are, then 30 percent of the colleges and universities contain a lot more than 30 percent of the students. The affirmative action problem looks to be a lot more ubiquitous than Bowen and Bok make it appear.

To see why, it is important to count the number of students in each tier. I do not claim to have done anything like Bowen and Bok's exhaustive research, but I did whip out my son's copy of the Kaplan/*Newsweek* guide *How to Get Into College* for 1999, and here is what I discovered. For the 1997–98 academic year, the eight schools in Bowen and Bok's first tier had a total reported enrollment of 30,825 students, of whom 2,289, or about 7.4 percent, were black. The three state schools in the lowest tier had a total reported enrollment of 73,565 students, of whom 4,872, or 6.6 percent, were black. That number

may be deceptively low because Penn State, with over 34,000 students, had only a 3 percent minority student enrollment.

If we add to the third tier just two schools, the University of California at Berkeley and the University of Texas at Austin, the numbers jump to about 7,500 black students out of 129,000, or 5.9 percent. But even those numbers are misleading, because by far the larger minority student population at both places is Hispanic, constituting 14 percent and 15 percent, respectively, of their student bodies (as opposed to 6 percent and 4 percent, respectively, for blacks). Bowen and Bok thus engage in a peculiar form of lumping that overstates the importance of the elite schools and underestimates the differences between blacks and whites that can be seen when the large state universities are taken into account.

Consider a table (page 62) from the Thernstroms' *America in Black and White*, based on an article published in the *Journal of Blacks in Higher Education*. These data, for freshmen enrolling in 1992, paint a different picture than the data offered in *The Shape of the River*. Among these universities, the difference between the average white SAT score and the average black SAT score is smallest at Harvard, which engages only in relatively modest affirmative action and is able to take the best of the applicant pool because of its reputation. But as one moves down through the Ivies, the gap increases. It becomes huge at Virginia, whose undergraduate student body is twice the size of Harvard's, and at the University of California, Berkeley, whose undergraduate student body is over three times the size of Harvard's. Even if one concedes the importance of the elite schools, their small overall enrollment means that Bowen and Bok have directed their attention only to the tip of the iceberg. Most black students, like most white students, attend the large state universities that are underrepresented in this study. It is there that both the student populations and the SAT gaps are largest.

The underrepresentation of large state universities seriously weakens the study for a second reason. Virtually every flagship state university practices affirmative action, and there is some reason to suspect that they will be less skilled at the art than

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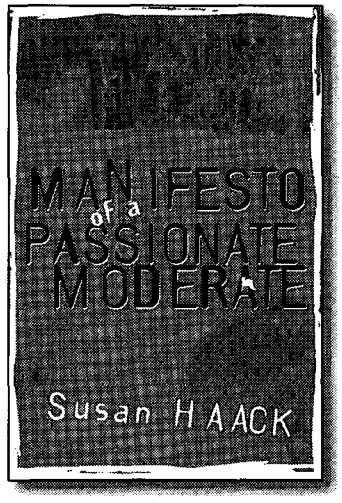

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private colleges and universities. It is easy to define what a color-blind program entails: ignore race. But affirmative action programs come in infinite varieties and intensities. In all likelihood the success of an affirmative action program depends on how far it goes and how quickly it can be revised in light of new information. Private colleges and universities have much better feedback mechanisms than large state schools that are beholden to legislatures and electoral politics. In those settings the heavily subsidized nature of public education makes the claim of black (and Hispanic) students for their share of public largess hard to resist. Schools will tend to lurch too far in the direction of affirmative action, then too far the other way.

Some evidence for this hypothesis comes from Texas' reaction to the judicial invalidation of affirmative action under the Equal Protection Clause of the 14th Amendment. Surely (as Bowen and Bok are inclined to agree) the new system, which guarantees admission to students who finish in the top 10 percent of their high school class, is far worse than the one it replaced, which pooled applicants from around the state, so as to allow the selection of the ablest students in each racial group, regardless of which schools they graduated from. The old policy flirted with quotas by explicitly incorporating lower standards for minority students. But it avoided the major vice of the new policy, which admits black students with poor records who finish at the top of weak schools while excluding stronger black students who did less well at more competitive schools. It will similarly distort the pool of white applicants, so that overall student quality will decline.

In light of this problem, racial quotas may offer the best solution to the affirmative action question. A quota has the advantage of picking the best students from each group. By making transparent the extent of any racial preferences, it allows them to be debated publicly in a responsible manner. Those who are opposed to affirmative action could resist any quota; other institutions might impose certain limitations below which admission is not offered, and the process could be continuously reviewed in light of the progress made by the enrolled students. Courts should think long and hard before invalidating affirmative action programs, unless they are prepared to take the next step and invalidate the Texas 10 percent program as a pretext or sham (which under traditional civil rights law it surely is). Otherwise, legislatures will seek to avoid the stain of racial preferences by adopting dubious selection procedures based on the premise that it's OK to make able white students worse off so long as able black students are made worse off as well.

In dealing with the elusive ideal of "merit," Bowen and Bok are surely correct to note that SAT scores and grades do not tell a student's entire story. A student's grades might suffer, for example, because he treats theater as his academic major and physics as an optional extracurricular activity. But in and of itself, this valid point does nothing to help the supporters of affirmative action. By any account, scores and grades remain an essential part of the mix. So long as that is the case, we should expect that college-bound black students as a group will start off with a substantial disadvantage. Their combined verbal and math SAT scores still hover around 200 points below those of white candidates, both for the students who take the test and the smaller fraction who apply to college.

Our core national commitment should be to a rule of law that creates zones of private authority where individuals may form voluntary associations that reflect the aspirations of their members and not those of the population at large.

Within the white pool, the stronger the scores and grades, the more likely the student to have those extracurricular activities that prove so attractive to college administrators. The same is true within the black pool. Even though the rank order of individual black and white students might change when the full file is considered, it is highly unlikely that blacks as a group will do better on intangibles than whites as a group; indeed, there is some reason to think, given their lower SAT medians, that they will do worse. An affirmative action program is not a system that uncovers hidden veins of merit that lie beneath the surface. When all is said and done, it is a program designed to boost black candidates relative to whites.

The boost may even be bigger than it appears. Bowen and Bok repeatedly express puzzlement that, with SAT scores held constant, black students seem to do worse than white students in college. Yet that result can be explained by the fact that the black and white applicants come from pools with different medians and (roughly speaking) the same variance. In each case, of course, the score that the applicant received could have been in error, either higher or lower than some hypothesized ideal. Given a bell-shaped distribution, both white and black applicants will tend to regress toward the means *of their respective distributions*, which in turn suggests that the corrected scores of black applicants (measured by repeated testing) would be lower than those of white applicants, given the difference in their respective means. The thoroughgoing defender of individual merit would therefore adjust downward the SAT scores of black students and upward those of white students to take this difference into account, now that the statistical theory has been confirmed by data. Here is one technical reform with no political future.

With this said, the inescapable question is how large a premium should be attached to each black applicant. Here Bowen and Bok would have done better to avoid the appeal to hidden merit and concentrate on the shape of the applicant pools. They are clearly right that no amount of massaging the traditional admissions standards could boost the percentage of black matriculants. Yet the explanation for that result is somewhat more benign than is sometimes supposed. All that matters under the traditional merit-based system is the rank order of the candidates in the applicant pool. If A is better than B, he gets selected for the spot, whether the gap between their records is large or small. It may be possible, therefore, to substantially increase minority admissions without substantially reducing standards.

Whatever the perceived quality of an institution, a large number of high school students will choose it as their "reach" alternative. A very large number of unadmitted white applicants could thus stand between the weakest cohort of the admitted white applicants and the strongest of the excluded black candidates. Those bulges hurt. It is quite possible, therefore, that we will leap over a very large number of white applicants to include more black applicants, yet the actual difference in performance ratings (and the predictions of success associated with them) would be relatively small.

The pain of the excluded white students still counts in any ultimate calculus. But to the extent that the above proposition is true, the defenders of affirmative action now have a pretty strong answer to the complaint that the admission of black students will lower the level of education by reducing the average quality of the students. On the other hand, the large number of affirmative action programs that accept large racial gaps in the scores of admitted students cannot take refuge in this argument. It is a pity that Bowen and Bok did not supply the evidence that would allow us to explore this issue in depth.

More concretely, it is not enough for Bowen and Bok to show that graduation rates at the most selective private schools are about the same for white and black students. The real question in many cases is whether the education that students receive is equal to what they would receive under a color-blind system. On this view, the increase in rates of graduation between the 1976 and 1989 freshman cohorts could be regarded as bad news about the decline in the overall rigor of undergraduate education in the United States rather than a statement about the improved performance of black students.

Likewise, it is not enough to show that the same percentage of black and white students major, for example, in the sciences (often with an eye to enrollment in medical school) or gain admittance to graduate and professional schools. Perhaps the practice of affirmative action that begins with college is simply replicated by the graduate and professional schools, where it is likely to have more dramatic consequences. Now the white students all come from the top of a nationwide pool that includes the best not only of the elite private institutions but also of the second-tier private schools and the large state schools that were not part of Bowen and Bok's study.

The same concerns apply to the authors' analysis of earnings data for graduates of the colleges in their study. Within the 1976 cohort from the most selective schools, for example, they find that the mean earnings of black women in 1995 ($71,800) were about the same as that for white women ($74,400). By contrast, the mean earnings of black men ($88,400) trailed those of white men ($110,500) considerably. Once again, these data cry out for an explanation. The usual story holds that black women are doubly disadvantaged, by sex and by race. Yet that theory is confounded when black women do as well as white women while black men fare considerably worse than white men. More

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important, these numbers do not provide an independent, color-blind confirmation of affirmative action's success. Affirmative action programs are as common in businesses as they are in colleges and graduate and professional schools. The earnings data that Bowen and Bok present therefore could be taken not as validation of the value added by affirmative action but as a sign that affirmative action is pervasive at all levels of American life, for good or for ill.

Bowen and Bok do not wish to scratch below the surface of this delicate question. In particular, they spend no time at all in looking at what happens to black and white college graduates in Ph.D. and professional school programs, including bar passage rates and medical board certifications. Data on these issues are sometimes hard to collect, but there is some evidence that the affirmative action problem persists beyond college. In 1997 bar passage rates for graduates of California law schools were 82 percent for white applicants and 57 percent for black ones. And those figures do not reflect the lower graduation rates of black law school students. Ph.D. trends are also disturbing. The number of black Ph.D.s dropped from 1,047 in 1982 to 951 in 1992, from 3.4 percent to 2.5 percent of the total. In 1992 no black candidates received a Ph.D. in many branches of mathematics and the physical sciences. One possible conclusion is that affirmative action raises the performance of the black students clustered at the middle of the pool, while lowering the performance of those at the top.

Unfortunately, Bowen and Bok explore none of these system-wide implications. Therefore they do not address the magnification effect introduced when affirmative action programs are resorted to not once but at each stage of career advancement. Within the white pool, the students become ever stronger as selection by traditional tests weeds out the lesser candidates. As one progresses within any professional hierarchy, the definition of merit becomes somewhat narrower and more performance-bound, but scores and grades are rightly regarded as strong predictors of professional excellence.

Which leads to the other portion of the affirmative action debate that Bowen and Bok ignore in their study: What is the proper role for affirmative action in the hiring of faculty? Here the stakes of any single decision are surely higher than with the admission of individual students. Faculty members often engage in research—cutting-edge research in the leading institutions of higher learning. What chances are there that some applicant who has been boosted by one or two affirmative action programs can compete with other faculty members who have survived a rigorous winnowing process at every stage of their professional development?

It is not only research that is at stake. It is also teaching. Weaker students can receive remedial education or outside tutoring. They can take easier courses or a lighter schedule. They can rely on their stronger classmates for assistance. But faculty have no place to hide. They stand in the front lines the first day they walk into class. It is not surprising that many of the complaints about affirmative action are directed at weaker faculty rather than weaker students. Strong black faculty members have to fight student preconceptions that they are there because of their race and not their ability. The heavy concentration of black teachers in black or race studies only increases the perception of ghettoization.

The case for affirmative action at the faculty level has to be weaker than it is for admission to college. Yet even here, no generalizations come easily because a lot depends on the mission of the college or university and the substantive demands of the discipline. The point is even more true once we abandon the high moral ground to examine, as Bowen and Bok urge us to do, the long-term impact of affirmative action on the vitality of universities.

The Shape of the River does deliver on its promise to supply facts that justify affirmative action in college and university admissions. The evidence that Bowen and Bok offer should be sufficient to answer across-the-board objections to affirmative action based solely on the self-evident truth of the color-blind position. But they still leave key questions about the appropriate use of affirmative action unanswered.

Even if there is a single, distinct color-blind approach to college and university admissions, there is no similar unity of approach for affirmative action. It could be practiced on a small scale or on a grand scale. It could be used to make sure that a critical mass of black students is enrolled in a given college. Or it could be used to make sure that the percentage of blacks in any institution is identical to that of blacks within a local community, a state, or the nation as a whole. There is no single answer to the question of how much affirmative action is ideal for any given institution of higher education. The right way to think about this question therefore starts with a strong preference for decentralized decision making. Let each college and university decide, free from government coercion (and that requires the repeal of the present version of 1964 Civil Rights Act as it applies to private colleges and universities), how much affirmative action it wants.

Many people on both sides of the affirmative action debate will recoil at the thought that private institutions should be allowed to chart their own course on this issue. The defenders of color-blind norms are often conservative defenders of free markets, but they are prepared to sacrifice freedom of contract and association to prevent what they regard as unacceptable discrimination. Meanwhile, the defenders of affirmative action want to use the stick of civil rights laws to maintain affirmative action, fearing that without coercion private colleges and universities will backslide into the traditional racial practices of Jim Crow.

This nightmare scenario is hard to take seriously. The key reason affirmative action survives is that it commands strong support within colleges and universities. The explanation for this support is both simpler and more powerful than is often acknowledged: It is simply not possible today for any major college or university to present itself to its alumni, its faculty, or its prospective students as a lily-white (or white and Asian) institution. Perhaps diversity doesn't enhance the educational experience. Perhaps it doesn't promote tolerance and understanding across groups. Perhaps affirmative action creates internal resentments, some serious instructional difficulties, and invidious individual comparisons. Perhaps it also creates an unfortunate set of desserts and re-

wards. No matter. So long as the demand for it remains, the practice will remain. Given this reality, the wise course is to decentralize the debate so that each college and university can make its own decisions, thereby shifting the focus from the lofty question of "whether" to the grubby question of "how much."

These observations are incomplete because they do not address how affirmative action should be implemented, if at all, within state-run institutions. I confess that I am uneasy about the predictable conservative response that the Equal Protection Clause requires that states hew to a color-blind approach. That principle works well when it requires that the same penalties be given to all individuals who commit the same offense, or at least to rule out race as a ground for more serious punishment of one individual than another. I have heard little sentiment anywhere for affirmative action in the criminal code, even though many voice concerns about an implicit racial bias in law enforcement.

Yet here we are not dealing with the forms of protection supplied by the night-watchman state. We are dealing with the distribution of public benefits to various citizens. I freely confess that there is no first-best solution to this problem, because no one can explain why higher education should be part of the public sphere in the first place. But there it sits, and it dispenses huge subsidies to a fortunate few who gain admission to its programs. These public institutions are in direct competition with private ones. Why, then, should they be precluded from adopting practices that private educators think indispensable for their colleges and universities in the current social and intellectual environment? It hardly matters whether I agree with their judgment or not: No one should be allowed to elevate his own views on affirmative action into an immutable first principle. But owing to incessant political pressures, it is not possible to decentralize decisions by public institutions about whether, and if so how, to implement an affirmative action program. And so we lurch from extreme to extreme.

The idea of a "national conversation" about race rests on the facile assumption that dialogue will yield a single solution backed by a broad social consensus. But this industrial-policy approach to affirmative action is subject to the same fatal objection that is raised against it in banking or computer research: too much central planning. Our core national commitment should be to a rule of law that creates zones of private authority where individuals may form voluntary associations that reflect the aspirations of their members and not those of the population at large. Bowen and Bok would have done us all a great service if they had stressed the sound institutional framework for making decisions about affirmative action rather than pushing their own preferred policy outcome. "Leave us alone" offers a much stronger foundation for affirmative action than "we are surely right."

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Behind the Green Door

By Lynn Scarlett

The Promise and Peril of Environmental Justice, by Christopher Foreman, Washington, D.C.: Brookings Institution, 191 pages, $22.95

On a recent Sunday afternoon, I joined a San Francisco civil rights activist in addressing several dozen chief executive officers from the petroleum industry. My co-panelist urged the CEOs, whom she described as among the most powerful men in the world, to take seriously charges of "environmental injustice." She reiterated familiar claims that minorities and the poor suffer the brunt of ill effects from toxic waste sites and polluting industrial facilities. She pleaded for social conscience. It was an impassioned speech, full of yearning for a world without tradeoffs, a world of pristine environments and endless job opportunities.

Advocates of environmental justice speak of becoming "experts in suffering," of being "trampled on," poisoned, and murdered. Delores Herrera, a member of the National Environmental Justice Advisory Council, captured the mood of her colleagues at a 1995 meeting where she announced, "I'm very emotional. I feel for everybody out there."

This emotion has translated into activism directed at stopping the opening of industrial facilities or extracting specific community benefits as part of the permitting process. More than 50 environmental justice cases have been filed with the Environmental Protection Agency since President Clinton gave teeth to the concept in a 1994 executive order.

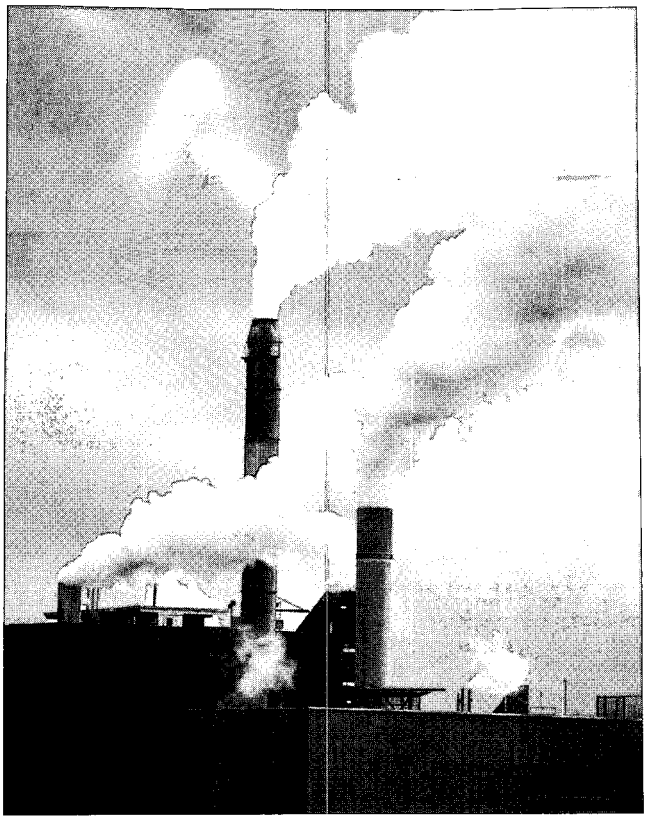
Last year, for example, Shintech Corp. abandoned plans to build a $700 million polyvinyl chloride plant in St. James Parish, Louisiana, after opponents filed a complaint with the EPA alleging that state regulators violated Title VI of the Civil Rights Act by issuing a permit for the plant. Rather than fight, Shintech decided to build a smaller plant in a different community. (See "Red Zone," page 14.) As a result, St. James Parish lost 255 sorely needed jobs.

In his wonderfully lucid book *The Promise and Peril of Environmental Justice,* Brookings Institution political scientist Christopher Foreman examines the basis for the discrimination claims underlying such cases. He concludes that "even a reasonably generous reading of the foundational empirical research alleging environmental inequity along racial lines must leave room for profound skepticism regarding the reported results." In particular, he finds that the research to date offers "no insight into the crucial issues of risk and health impact."

But Foreman's discussion does not focus on this research. Indeed, he argues that whether industrial and waste facilities are disproportionately located in minority and poor communities is in many respects "irrelevant to the underlying objectives and gratifications that stir activist and commu-

nity enthusiasm for environmental justice." The movement, he perceives, is largely an extension of the 1960s-style thirst for community empowerment—a desire by minorities and the poor to participate in decisions that affect their lives. At its root, writes Foreman, the environmental justice movement is aimed at "enabling citizens to hold public institutions accountable and private capital at bay."

Foreman understands this yearning for accountability; he sympathizes with a desire for "livable" communities. And he recognizes that, notwithstanding the paucity of evidence showing environmental inequities, many minority and poor communities live amid noise, odors, filth, congestion, dilapidation—in short, the conditions associated with poverty. But he sees the environmental justice movement as ill-suited to tackling these problems. Indeed, he argues that it may unintentionally make matters worse. He supports these claims in three ways.



Smokestacks Get In Their Eyes: Christopher Foreman argues that the environmental justice movement focuses attention on exaggerated risks from external sources while ignoring more potent ones associated with lifestyle choices.

First, Foreman argues that its activist orientation requires that the environmental justice movement use aspirational, all-encompassing language and embrace a "boundaryless" agenda of fairness, justice, and equality. This agenda, he says, is "rooted not only in the raw imperatives of coalition politics but also in a philosophical ideal." Successful mobilizing around the environmental justice agenda must avoid "victimizing" any potential activist; hence, the agenda must "prohibit disagreeable discussion of priorities and tradeoffs." While an agenda promising all good things for all people inspires passion, it does not allow for a setting of priorities from which actions to reduce risks or improve well-being might result.

The environmental justice movement, Foreman suggests, may exacerbate the problem of "missing priorities" that already afflicts environmental policy, directing resources away from substantial risks and toward minuscule ones. It focuses attention outward, toward externally imposed risks from industrial facilities, even when those risks may be small or nonexistent, while ignoring the potentially more potent risks associated with personal lifestyle choices such as smoking, diet, and alcohol consumption. And the "not in my backyard" (NIMBY) sentiment that environmental justice activists nurture ignores opportunity costs. Foreman is not referring simply to jobs vs. the environment. He is referring also to tradeoffs between risks that occur when NIMBY activism inadvertently keeps older, dirtier facilities in operation longer or when gold-plated cleanups of waste sites leave other environmental problems unattended.

Second, Foreman argues that concerns about filth, noise, odors, housing disrepair, inadequate sanitation, lack of jobs, and so on cannot be adequately addressed through environmental policy. The nation's major environmental programs are not designed to tackle these problems, and merely tinkering with public procedures and enhancing the public voice in siting and cleanup decisions will not bring homes or jobs to the poor. These problems, writes Foreman, "should be addressed directly rather than riding as hidden cargo aboard exaggerated or unsubstantiated assertions of risk and racism in siting and [environmental] enforcement."

Third, Foreman notes that the advocacy tools of environmental justice, focused as they are on public mobilization, must rely on outrage and a "trolling for government and corporate villains." He warns that "outrage is an exceedingly inefficient way to foster health in minority and low-income communities." If outrage results in "blocking any facility that any person or group opposes with a cry of environmental racism, then environmental policy will have taken a path that is all but certain to produce its own victimization of minorities."

If what environmental justice advocates want is better health and less risk, they may be on the wrong track, according to Foreman. If, on the other hand, what they really want is political power—a place at the table—then they are already succeeding. Activists cannot claim that they "are today unable to effectively challenge projects of which they disapprove. Indeed, the episodes regularly highlighted as examples of injustice often portray projects either blocked outright or substantially transformed to address community concerns." The Shintech plant in Louisiana illustrates the point. The larger question is whether these successes have produced improvements in health, opportunity, and community well-being.

The excellence of Foreman's book lies in the questions that he dares to pose. Though sympathizing with the ills that motivate grassroots environmental justice advocates, he understands that constraints on time and resources, as well as the complex physical realities of our environment, make tradeoffs inevitable. And if tradeoffs exist, choices must be made. Disgust that such choices are necessary will not eliminate them. Foreman invites the environ-

mental justice community to discuss more openly the major health risks that affect poor communities, many of which arise from personal choices.

Because he acknowledges the reality of tradeoffs, Foreman explores how information about risks might be better communicated, perhaps by introducing into local environmental justice dialogues some role for public health experts. But he is realistic. He is aware of the expansive literature that demonstrates a gap between how scientists and citizens understand risks. He is also aware that efforts to inject "the data" into impassioned discussions about risk among community activists can backfire; appeals to science are often viewed as delay tactics and evasion of central concerns.

Ironically, the participation agenda of environmental justice activists may turn out to be an important tool for advancing a more science-based understanding of relative risks. Recent experience in siting noxious facilities and waste sites suggests that people are more open to scientific and technical discussions of risk if they are involved in the process from the beginning. But environmental policy decisions will improve only if the individuals determining how clean is clean enough or "to build or not to build" experience both the costs and the benefits associated with those decisions. This linkage requires that the people at the bargaining table not be outsiders who have an incentive to push for gold-plated cleanups and block every proposed facility. Yet limiting participation in these negotiations to local citizens will draw cries of protest from national environmental activists.

Foreman's book succeeds so well because he conveys sympathy for poor communities without letting that sympathy stand in the way of a hard look at what is real in those concerns, what is exaggerated or misdiagnosed, and what sort of changes can reasonably be expected in a world of tradeoffs.

Foreman does not provide us with a road map. He doesn't sort through the tangle of questions about what rights owners ought to have in the use of their property; or how those experiencing noise, odor, or emissions from industrial facilities in shared spaces might be better empowered to negotiate reductions in those effects; or who ought to have a say in these decisions.

And though Foreman argues that environmental policy is not the right venue through which to redress all the grievances of the poor, he doesn't offer environmental justice advocates a compelling alternative. He draws little hope from past experiences with job training programs, public health initiatives, and other programs aimed at improving the lives of poor people.

But this is not a shortcoming of the book. Instead, it is an honest observation about the limits of public policy. Though Foreman believes government has a role to play in advancing "social justice," his final caution is that "we cannot simply legislate, regulate, litigate, or protest our way toward healthy and livable communities." Foreman's book succeeds so well because he conveys sympathy for the concerns of poor communities without letting that sympathy stand in the way of a hard look at what is real in those concerns, what is exaggerated or misdiagnosed, and what sort of changes can reasonably be expected in a world of tradeoffs. ◆

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Bad Will Toward Men

By Cathy Young

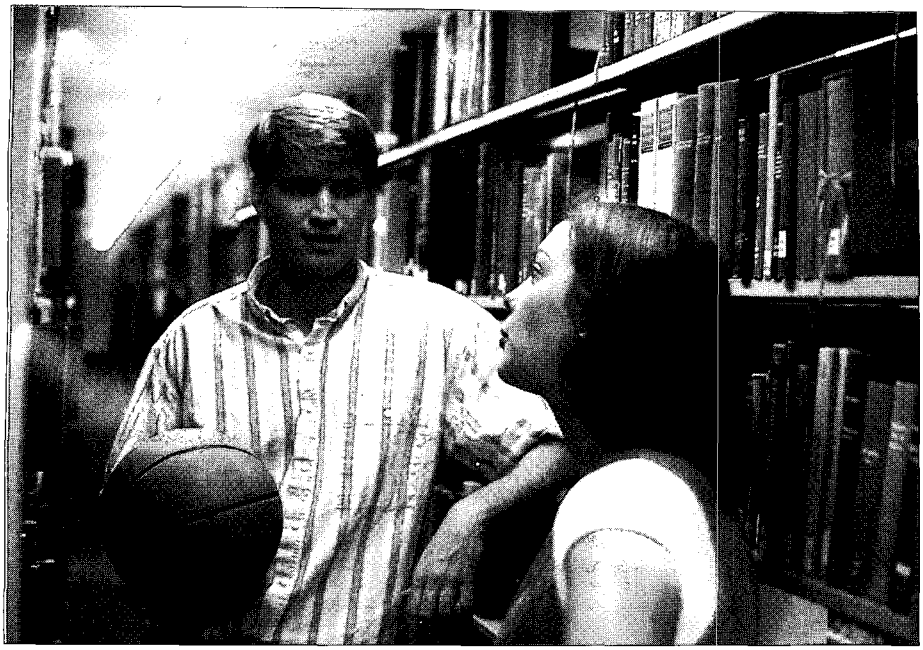
Heterophobia: Sexual Harassment and the Future of Feminism, by Daphne Patai, Lanham, Md.: Rowman & Littlefield, 250 pages, $22.95

In February 1998 (not long after Monica Lewinsky became a household name), Daphne Patai attended a conference on sexual harassment at Yale University. Among the many things she found striking was the fact that, while a discussion of same-sex harassment occasioned expressions of fear about inciting homophobia, there were no such concerns about promoting "heterophobia"—which Patai defines as antagonism toward men and heterosexuality. Yet such an animus, she argues, is behind much of the recent effort to stamp out sexual harassment.

Heterophobia: Sexual Harassment and the Future of Feminism is, as far as I know, the first book-length critical review of the crusade against sexual harassment. Patai, a professor of comparative literature and women's studies at the University of Massachusetts, Amherst, and co-author of *Professing Feminism: Cautionary Tales from the Strange World of Women's Studies*, is a formerly radical feminist who is appalled by what has become of the feminist project to remake human relations.

Patai recognizes that the problem which feminists in the 1970s labeled "sexual harassment"—coercive or abusive sexual behavior in the workplace—is real, and legal recourse was needed against it. The problem, she asserts, is that from the beginning the concept was stretched to embrace not only sexual extortion or aggression but any "overt manifestations of male sexuality" that might upset some women. In Patai's view, "the experience of sexual interest and sexual play...is an ordinary part of human life," and while "misplaced sexual attentions" can be vexatious at times, it is impossible to protect people from them without creating a climate of repression and intolerance. In fact, she suggests that we already have such a climate.

Some of the worst horror stories come from academia, where the fear of litigation is compounded by feminist zealotry, and it is on the academy that Patai focuses. She chronicles the stories of professors whose careers and whose very lives have been devastated by charges that are either chill-



Sexual Politics: Daphne Patai's *Heterophobia* is a powerful brief for personal freedom and against efforts to politicize human relations and strip them of their complexity. Patai leaves no doubt that sexual harassment laws and policies as they exist today do far more harm than good. This timely book can provide an additional push for a rethinking of the ideological and legal orthodoxies that have gotten us where we are now.

ingly trivial (a writing instructor fired for allowing a student-initiated discussion of sexual topics) or fantastic (multiple rapes which somehow didn't keep the victim from signing up for an elective course with the rapist). A classroom statement that some rape allegations are false or that life begins at conception can trigger claims of a "hostile environment." Uncorroborated and improbable charges can be pursued for years, with the accusers sometimes allowed to revise their stories long after filing the complaint and the accused sometimes denied access to materials from the investigation. Even accused men who are eventually exonerated are usually saddled with huge legal bills and stained reputations, while the officials who preside over the witch hunts survive with their careers intact.

As *Heterophobia* shows, these travesties are not merely incidental excesses but logical results of the basic premises of what Patai calls the "Sexual Harassment Industry." The industry's mentality is laid bare in Patai's analysis of an authoritative recent text on campus harassment, *Sexual Harassment on Campus: A Guide for Administrators, Faculty, and Students*, by Bernice Sandler and Robert Shoop (1997). Women are seen as powerless in interactions with men; distinctions between trivial and severe offenses are erased; an accusation, for all intents and purposes, equals guilt. Lack of evidence is treated as a pesky inconvenience, to be circumvented by such Kafkaesque means as depositing unproven allegations into sealed files that can be opened in the event of future complaints against the same person.

Sometimes women—such as flamboyant feminist professor Jane Gallop, whom Patai aptly dubs an "intellectual flasher"—get ensnared in the trap. In an insightful and amusing chapter, Patai dissects Gallop's account, in her book *Feminist Accused of Sexual Harassment*, of being on the receiving end of a sexual harassment charge by a female graduate student. To Gallop, sexual harassment is about male power, and it is a distortion of the cause to invoke such charges against women and feminists. In other words, "she wants sexual harassment law and regulations to exist *only* within a framework that provides her and other feminists with license, while restraining the behavior of men. And this she presents in all seriousness as a right and just demand."

Such blatant advocacy of double standards is rare. But Gallop is right about one thing: The sexual harassment crusade was intended to be a war against men. "Somewhere along the line," writes Patai, "the feminist criticism of patriarchal institutions derailed into a real, visceral, and frightening antagonism toward men and a consequent intolerance toward women who insist on associating with them."

This is hardly a new charge, of course, and it's one that most feminists indignantly deny. But Patai, who provides the most comprehensive analysis of the topic to date, makes a persuasive argument that the image of orthodox feminism as anti-male and anti-heterosexual is not just "the product of 'backlash' or bad public relations." She notes that "prominent heterosexual feminists routinely approach the potential conflict between their feminism and their heterosexuality in an apologetic mode," rather than questioning the existence of such a conflict. Patai's discussion of self-hating male feminists, including a tragicomic young man who strives to become asexual because he finds that any sort of sexual act, even homosexual or solitary, is "contaminated by patriarchal values," is alone worth the price of the book.

Patai relies not only on texts but on her own and others' real-life experiences in women's studies—a world in which a teacher refers to her husband as her "partner" without pronouns, leading students to assume that she is a lesbian, and a faculty member's announcement of her upcoming marriage causes an awkward silence among her colleagues. Some will surely accuse Patai of exaggerating the importance of a lunatic fringe. But while she concedes that hard-core heterophobia is "an admittedly minority position within feminism," she makes a convincing case that its ideas and its rhetoric have infected the crusade against sexual harassment, with its presumption that male sexual interest demeans and endangers women.

In an interesting twist, Patai places her analysis of modern sexual politics in the context of dystopian fiction—futuristic visions of a completely regulated life (such as Aldous Huxley's *Brave New World*). She sees codes of speech and conduct meant to protect women from possible "discomfort" as stemming from the sort of mindset described in such stories. "To conflate much of what today is labeled 'sexual ha-

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rassment' with serious forms of sexual assault and abuse," she writes, "is to invite authoritarianism into our lives—the hand of the state everywhere in the private sphere, until there is virtually no private sphere left."

Like many other critics of feminist extremism, Patai notes that it is bad for feminism itself, insofar as feminism is about equality and dignity for women. Refreshingly, however, she adds that one should be able "to attack feminism for the harm it is doing to men and to nonfeminist women," not just to its own cause. Patai doesn't just denounce male bashing; she has genuine sympathy for men and a strong sense of the common humanity of men and women. She proposes a fascinating mental exercise: Imagine that men start to clamor for protections against "emotional harassment" by women (all those demands to express their feelings!) similar to current protections for women from sexual harassment by men.

This thoughtful and fair-minded book might have been helped by a look at the question of whether serious sexual misconduct sometimes goes unpunished—when, for example, the wrongdoer is influential or has the support of campus feminists. One also wishes Patai had included more material from the world outside of university campuses; as it is, she leaves room for the argument that the excesses of the sexual harassment industry which she chronicles are limited to the academy (they are not). Then, too, a few of her case histories might have benefited from more detail. But these are quibbles.

Heterophobia is a powerful brief for personal freedom and against efforts to politicize human relations and strip them of their complexity. Patai leaves no doubt that sexual harassment laws and policies as they exist today do far more harm than good. Perhaps, as President Clinton's tribulations continue to fuel a backlash against "sexual McCarthyism," this timely book can provide an additional push for a rethinking of the ideological and legal orthodoxies that have gotten us where we are now. ◆

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Not-So-Dismal Scientist: P.J. O'Rourke's *Eat the Rich* seeks to answer the question, "Why do some places prosper, and others just suck?"

Tasty Economics

By Max Schulz

Eat the Rich: A Treatise on Economics, by P.J. O'Rourke, New York: Atlantic Monthly Press, 246 pages, $24.00

Those whose exposure to economics is limited to collegiate readings of Paul Samuelson's popular textbook would likely second Thomas Carlyle's characterization of the subject as "the Dismal Science." Economics can indeed be dismal when confined to bewildering graphs, stupefying charts, mind-numbing (and often wrong) theories, and classroom discussions led by tenured careerists who may have never worked outside academia.

But economics is really the study of how people live and act day to day. Economics isn't the study of graphs and currency flows and GNP numbers as much as it is the study of human interaction.

Now comes *Eat the Rich*, a refreshing look at economics by someone who grasps this point and runs with it. The question P.J. O'Rourke, irreverent author of books such as *Parliament of Whores* and a contributor to *Rolling Stone*, seeks to answer is simple: "Why do some places prosper, and others just suck?" Not too different from the question Jude Wanniski, in slightly more elegant form, claimed to answer 20 years ago in his classic *The Way the World Works*. But O'Rourke has one thing over Jude Wanniski: His book is a hell of a lot funnier.

Open *Eat the Rich* and the one-liners jump out. On page 46, the "heart-surgery-colored" Albanian flag bears "the image of what's either a two-headed eagle or a very angry freak-show chicken." On page 149: "Measuring the current Russian economic situation against the old Soviet economy is like trying to do arithmetic by tasting the numbers." On page 178, discussing whether the stated reasons for the West's giving Tanzania so much foreign aid—to keep it from going communist—were sensible or not: "The ugly truth is that we care about Tanzanians because they have cool animals."

Credit O'Rourke with seeking empirical evidence to answer his grand question. Or at least credit whoever signs off on his expense account. In preparation for *Eat The Rich*, he traveled the globe, from Wall Street to Tiranë (capital of Albania), from Sweden to its "evil twin," Cuba. He explored locales such as Russia, Hong Kong, and Shanghai.

The charming conceit of this text is that its author has no formal economic training, that he is an idiot on the subject. He just traipses about, poking around and seeing what other peoples around the world do to get by each day. Those familiar with O'Rourke's previous writings will know this to be something of a pose. I recall a hilarious piece he wrote nearly a decade ago lambasting America's skewed agricultural price support system. It was among the most concise and on-the-mark treatments the subject has received.

O'Rourke knows more than he lets on, even if he did blow off Econ 101.

He notes that governments don't cause affluence, that citizens of totalitarian countries have had lots of government for decades and nothing of anything else. At the same time, making his point that complete absence of government doesn't work either, he remarks that "for a million years mankind had no government at all, and *everyone*'s relatives were naked in trees."

So O'Rourke sees what works (or, more often, what doesn't work) in various countries, and his observations can be fascinating. His study of the "Good Socialism" of Sweden would seem to present one rather large ideological problem: The country works. Detailing the evils of, say, Cuba is not hard. Far from living in a socialist paradise, Castro's serfs are impoverished and the country is broken down. But in Sweden, people are affluent and relatively contented; the country is peaceful. Is this the real socialist paradise?

O'Rourke describes a society whose redistributive mania has been fully endorsed by the mass of citizens. People happily tax themselves to the gills and voluntarily restrict their personal freedoms as a means to achieve equalized prosperity. Which leads O'Rourke to remark, once it dawns on him that the Swedish Stepford streets contain no loons or nuts, "The last time I walked through Gamla Stan, I didn't wonder where the crazy people were. In Sweden the craziness is redistributed fairly. They're all a little crazy."

Those who advocate Swedish-style socialism are in fact a little bit crazy, at least in thinking it could have any sort of universal application. It can't. Swedes may be willing to shell out most of their income in taxes, but most people aren't. And even those high taxes don't cover the lavish benefits of Sweden's fabled "middle way." And while one country can get away with that, at least for a while, you don't need Kant to tell you that such a system can't work everywhere.

This may sound a bit serious or stuffy. But O'Rourke's charm is that he's not one of the self-serious types found haunting the low-rent neighborhood of cable television networks sponsored by NBC, pompously holding forth on the affairs of the day. None of which means this isn't a serious book. It is. Very much so. It just happens to be slap-ass funny, too. That kind of combination hasn't really occurred since, well, since O'Rourke's last book, *Age and Guile Beat Youth, Innocence and a Bad Haircut.*

"This is central planning. And anybody who advocates central planning—from Gennady Zyuganov to Sidney Blumenthal—should be made to get down on his hands and knees and lick the Irkutsk-to-Vladivostock train," writes O'Rourke about an awful Trans-Siberian Railroad trip.

Consider his foul three-day trip on the Trans-Siberian Railroad, one of many unholy relics of the old Soviet system. The hardships he records I can only hint at, but they involve disgusting and sweaty Russians cramped together, nasty overflowing restrooms, stiflingly hot cars, and (worst of all) a shortage of vodka. The lesson learned can be reprinted in full: The train is "reeking, grubby, airless, and clamorously loud," he writes. "This is central planning. And anybody who advocates central planning—from Gennady Zyuganov to Sidney Blumenthal—should be made to get down on his hands and knees and lick the Irkutsk-to-Vladivostock train." Somehow, I can't quite picture Hayek saying it the same way.

O'Rourke goes from countries that don't work to one that does—er, *did*—Hong Kong. Why did the former colony work? Because it was essentially unplanned. Its British overlords made Hong Kong successful, if those are the right words, by doing little or nothing.

Such laissez faire "isn't Tanzanian administrative sloth or Albanian popular anarchy. Quite a bit of government is required to create a system in which the government leaves people alone." "Doing nothing" is a relative term, O'Rourke explains. It really means keeping taxes and regulation to a *minimum*, *maintaining* the rule of law, and ensuring the currency is sound.

O'Rourke does us all a great service by providing a little history lesson on Hong Kong and giving appropriate credit to Britain's postwar administrator, John Cowperthwaite, who served there from 1945 until the early '70s. Histories tend to exalt government leaders who *do* and *act* and *build* and generally expand the state, whether it is Teddy Roosevelt or FDR, Mao or Stalin. Cowperthwaite, however, accomplished more good than those grandiose and arrogant dreamers ever could. Naturally, he is virtually unknown.

When he first arrived in Hong Kong to implement the recovery, Cowperthwaite wisely recognized that the island was recovering nicely without him. He thus inflicted as little government as possible on the island, leaving it to prosper of its own accord. That sensible ethic reigned until the communist takeover in 1997.

By the end of his journeys O'Rourke has a pretty good idea why some countries prosper and why others just suck. And it boils down to some simple things: the rule of law, private property, limited government, sound money, personal freedom.

He waxes philosophical on these points, and even a little theological, as in his hilarious reflection on the 10th Commandment and what God thinks about the politics of envy: "If you want a donkey, if you want a pot roast, if you want a cleaning lady, don't bitch about what the people across the street have. *Go get your own.*" The message to all wealth redistributors "is clear and concise: Go to hell."

Eat the Rich is a book written for people who might want to know more about economics "but have never gotten further into the subject than figuring out a trifecta at Belmont." Now, if O'Rourke would only write a book about handicapping. I have no illusions that he could help me decipher the Rosetta Stone of the *Racing Form* or figure a way to hit a daily double, but at least I'd be laughing while losing my shirt. ◆

Max Schulz (millyon@aol.com) is an adjunct scholar with the Frontiers of Freedom Institute.

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HMO Phobia

Quack remedies for the health care "crisis"

By Thomas W. Hazlett

Dr. Ken Smith has a mission: to destroy the HMO system which today enrolls 85 percent of insured Americans. The Boston-based physician's reasons are simple and humane: "We are for patients, not profits." And his disgust is real: "How dare somebody in some board room in Connecticut decide what I'm worth, and on a whim decide that my worth should be reduced?"

The elements of the current crusade against managed care combine the front-page horror story of the access-denied victim with the political clout of a network of influential millionaires. In swank country clubs all across the land, high-powered attorneys are burying the hatchet with prosperous physicians, getting beyond that little multibillion-dollar spat over medical malpractice. Now they're toasting martinis and swearing litigation against the common enemy: HMOs that clamp down on medical costs.

It may shock the good Dr. Smith, but many of the common folk are quite used to having distant big shots in faraway boardrooms establish the price for their labor. And as for the purity of spirit to which Smith appeals, we do appreciate the thought. But it's best to avoid any kind of competition regarding who's been more successful in bringing health care to the masses, the typical HMO shareholder vs. the typical M.D. After all, who is more likely to be recreating out on the golf course Wednesday afternoon?

The health care market is tricky, and the shadow under which all discussion takes place is the cost explosion tied to third-party payments. When Dr. Smith was perfectly free to prescribe for "his" patient and push the costs onto others—well, that was the Golden Age for doctors. And, coincidentally, 9.9 percent annual medical cost inflation (just to pick the peak year, 1991) for the rest of us.

Managed care stepped in—indeed, it arrived in an ambulance answering a 911 call from ratepayers. HMOs had a tough job to do, teaching lots of doctors with egos the size of Smith's that there ain't no such thing as a free surgical procedure. They have yet to succeed; a group Smith has helped to organize, The Ad Hoc Committee to Defend Health Care, protests the "HMO bean counters" and advocates a single-payer system.

The reality is that the rationing that accompanies state-run systems makes the HMOs look like big spenders. That's not because the government hires better "bean counters." Quite the reverse—the beans sort of just disappear. And then it's, "Sorry, you'll just have to wait on that heart bypass until some more beans turn up."

The rationing that accompanies state-run systems makes HMOs look like big spenders. That's not because government hires better "bean counters." That's because the beans sort of just disappear.

Marc Roberts, a Harvard economist specializing in health care markets, claims that the doctors' real aim is "to regain status, power and income that they lost in this for-profit industry," and that holding the patient's welfare out as a bargaining chip is a smart stratagem. "They wouldn't gain any support if they stood up and said, 'Instead of making $300,000, I now make $200,000, and you should all feel sorry for me.' " The blunt fact is that letting doctors run up medical tabs resulted in runaway expenditures, stealing money from the pockets of wage earners, who ultimately pay in the form of reduced take-home.

Unaffordability is itself a cause of illness, as it puts more Americans outside the health insurance system altogether, lessening their access to regular checkups and preventive medicine. Instead, they increasingly resort to visits to crowded hospital emergency rooms. Treatment there is inefficiently administered—and quietly tacked onto the bills of paying customers, further driving up costs and pushing more working people out.

As consumers, many of us prefer plans which offer a wide range of choice among doctor and treatments. But to receive the benefits from that high-cost deal, we do—and should—pay more via higher premiums and lower reimbursements. Government surely has a role to play enforcing contracts with insurers who attempt to renege and as a smart shopper purchasing large volumes of health care directly. (My understanding is that neither courts nor Medicare and Medicaid are as yet perfectly administered.)

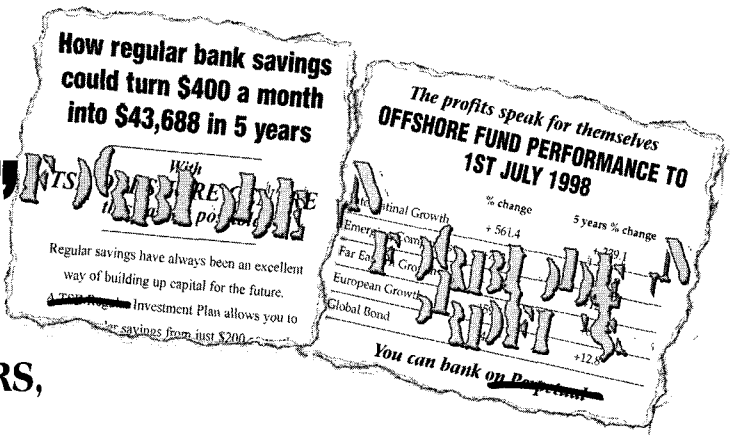
The pressure to realistically assess the cost-benefit tradeoffs in medical care should be welcomed by those outside the fashionable salons where "for-profit" medicine is profitably denounced. In fact, the overwhelming majority of Americans find their HMOs good to excellent, and most rate them as superior to traditional health insurance on the value/dollar scale.

That's a state of affairs that the HMO reformers aim to change. Stuart Altman, professor of health policy at Brandeis University, notes: "The more we reduce the power of managed care to control spending by restricting services, the more we are going to take [away] the pressure of providers to constrain spending."

That's what doctors want, that's why lawyers will sue, and that's the reason Congress will legislate. But don't feel left out—you'll get the bill.

Contributing Editor Thomas W. Hazlett (hazlett@primal.ucdavis.edu) is an economist at the University of California at Davis and a resident scholar at the American Enterprise Institute.

"FORBIDDEN KNOWLEDGE"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